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PART II-A

GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

ORDERS BY THE GOVERNOR

NOTIFICATION

The 10th February, 2011.

No.MSERC/08/2011/1.-In exercise of the powers conferred by clauses (zc), (zd) and (ze) of subsection (2) of section 181 read with section 61 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf, the Meghalaya State Electricity Regulatory Commission hereby make the following regulations, the same of which have been previously published in the Gazette of Meghalaya of issue dated September 16, 2010, Part II A, pages 269 – 405, and the comments and suggestions received thereon have been duly considered, namely -

THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF TARIFF) REGULATIONS, 2011.

(1 OF 2011)

Chapter – 1: PRELIMINARY

1. Short title and commencement

- (1) These regulations may be called the Meghalaya State Electricity Regulatory Commission (Terms and Conditions for determination of Tariff) Regulations, 2011.
- (2) These regulations shall come into force on the date of their publication in the Gazette of Meghalaya

- (3) These regulations shall apply to all generating companies and transmission & distribution licensees in the State of Meghalaya.

2. Definitions

In these regulations, unless the context otherwise requires,

- (a) “**Act**” shall mean the Electricity Act, 2003 (36 of 2003) as amended from time to time.
- (b) “**Conduct of Business Regulations**” means the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007
- (c) “**Commission**” means the Meghalaya State Electricity Regulatory Commission
- (d) “**Current Year**” means the year in which the Aggregate Revenue Requirement petition or petition for determination of tariff is to be filed;
- (e) “**CERC**” means the Central Electricity Regulatory Commission
- (f) “**Ensuing Year**” means the year immediately following the current year.
- (g) “**Force Majeure Event**” means event beyond the reasonable control of the generating company or the licensee, including, but not limited to earthquake, cyclone, flood, storm, war, terrorist attack, civil commotion or other similar occurrence that lead to any act that would involve a breach of relevant laws or Regulations;
- (h) “**Licensee**” means a person who has been granted a license and shall include a deemed licensee.
- (i) “**License**” means a license granted by the Commission under Section 14 of the Act.
- (j) “**Licensed Business**” means the function and activities, which the licensee is required to undertake in terms of the License granted by the Commission or as deemed Licensee under the Act.
- (k) “**MYT (Multi year Tariff)**” means where tariffs are applicable for a specified control period of three years or more. This would minimize risks for utilities and consumers, promote efficiency and appropriate reduction of system losses and attracts investments and would bring greater predictability to consumer tariffs by restricting tariff adjustments to known indicators on power purchase prices and inflation indices.
- (l) “**Norms**” means standards prescribed by the Commission for performance of generating station, transmission system and distribution system.
- (m) “**Previous year**” means the year immediately preceding the current year.
- (n) “**Regulatory Asset**” means previously incurred losses that are in the nature of deferred expenditure and that can be recovered from consumers in future, provided allowed by regulatory authorities.
- (o) “**Tariff**” means the schedule of charges for generation, transmission, and distribution of electricity determined by the Commission from time to time;
- (p) “**Year**” means financial year ending on 31st March.
- (q) Cut of date – “Cut of date” means 31st March of the year closing after two years of commercial operation of the project, and in case project is declared under

commercial operation in the last quarter of a year, the cut off date shall be 31st March of the year closing after three years of the year of commercial operation.

- (r) "Change in law" means occurrence of any of the following events:
- (i) The enactment, bringing into effect, adoption, promulgation, amendment, modification or repeal of any law; or
 - (ii) Change in interpretation of any law by a competent court, tribunal or Indian government instrumentality which is the final authority under law for such interpretation; or
 - (iii) Change by any competent statutory authority, in any consent, approval or licence available or obtained for the project.

The words and expressions used in these Regulations and not defined herein but defined in the Act shall have the same meaning assigned them under the Act.

Chapter – 2:

GENERAL GUIDING PRINCIPLES FOR DETERMINATION OF TARIFF

3. Tariff determination

- (1) The Commission, while determining the tariff shall be guided by the following principles contained in Section 61 of the Act, namely –
- (a) The principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies or transmission licensees;
 - (b) The generation, transmission, distribution and supply of electricity are conducted on commercial principles;
 - (c) The factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;
 - (d) Safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;
 - (e) The principles rewarding efficiency in performance;
 - (f) The tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner to be laid down by the Commission.
 - (g) The promotion of co-generation and generation of electricity from renewable sources of energy;
 - (h) The National Electricity Policy and Tariff policy as laid down by the Government of India.

- (2) The Commission shall adopt such tariff as laid down under Section 63 of the Act where such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government,
- (3) The Commission shall subject to the provisions of sub-regulation 3(4), determine the tariff in accordance with the provisions of the Act, and these regulations, for –
 - (a) Supply of electricity by a generating company to a distribution licensee;
 - (b) Transmission of electricity;
 - (c) Wheeling of electricity;
 - (d) Retail sale of electricity;

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

- (4) In case it is not possible or practicable to determine tariff separately for (a) to (d) above, the Commission may fix combined tariff for more than one of these activities as per requirement.
- (5) Where the Commission has permitted open access to any category of consumers under sub section (2) of Section 42 of the Act, such consumers, notwithstanding the provisions of clause (d) of sub-section (1) of Section 62 of the Act, may enter into an agreement with any person for supply/ purchase of electricity for this purpose on such terms and conditions (including tariff) as may be agreed upon by them, subject to the payment of various wheeling charges cross subsidy surcharge, additional surcharge and other open access related charges as determined by the Commission.
- (6) The Commission while determining the tariff, shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.
- (7) If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall, notwithstanding any direction which may be given under Section 109 of the Act, pay, in advance to the period to which it is applicable and in such manner as may be specified by the Commission.

Provided that no such direction of the State Government shall be operative if the subsidy payment is not made in accordance with the provisions contained in this regulation and the tariff fixed by the Commission shall be applicable from the date decided as per the tariff order issued by the Commission in this regard.

4. Charging of permissible Tariff

- (1) Subject to the provisions of sub-regulations 3(3) and 3(4), no generating company or licensee shall, without prior approval of the Commission, charge any tariff;

Provided that the existing tariff being charged by the generating company or the licensee shall continue to be charged even after the date of commencement of these regulations, till such time the tariff is revised by the Commission.

- (2) The generating company or the licensee shall not charge a tariff in excess of the tariff determined by the Commission and if any generating company or licensee recovers a price or charge exceeding the tariff determined by the Commission, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the generating company or the licensee.

5. Cross-Subsidy

- (1) "Cross-subsidy for a consumer category" in the first phase (as defined in sub regulation 5.2 below) means the difference between the average realization per unit from that category and the combined average cost of supply per unit. In the second phase (as defined in sub-regulation 5.2 below) means the difference between the average realization per unit from that category and the combined per unit cost of supply for that category.
- (2) The Commission shall determine the tariff to progressively reflect the cost of supply of electricity and also reduce cross subsidies within a reasonable period. To this purpose, in the first phase the Commission shall determine tariff so that it progressively reflects combined average unit cost of supply in accordance with National Tariff Policy. In the second phase, the Commission shall consider moving towards the category-wise unit cost of supply as a basis for determination of tariff.

6. Power purchase and fuel cost adjustment

- (1) The Commission shall allow the recovery or refund, as the case may be, of additional charge for adjustment to tariff on account of change in fuel related costs of electricity generation and purchase of electricity.
- (2) The additional charge for adjustment shall be recovered or refunded, as the case may be, on a quarterly basis; and shall be taken as per actuals of the last three months.
- (3) The generating company or licensee shall put forth a formula for such recovery or refund in their tariff petition for approval by the Commission.
- (4) After approval of the above proposed formulae with modifications, if any, the generating company or licensee is not required to file separate petition for power purchase and fuel cost adjustment.
The generating company or licensee shall determine such charge, in accordance with the formula under sub-regulation 6.4 above, and recover or refund the same, as the case may be, from their respective beneficiaries / consumers.
- (5) The generating company or licensee shall send detail calculation of such charge quarterly to the Commission for scrutiny and approval along with the charge actually recovered / refunded.
- (6) The generating company or licensee shall refund or recover, as the case may be, any difference of such charge already recovered by it and now approved by the Commission.
- (7) In case of any reduction in power purchase and fuel cost the generating company or licensee shall refund the same by adjustment in the monthly bill within 3 (three) months.
- (8) In case of any dispute, an appropriate petition in accordance with the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007 as amended from time to time shall be made before the Commission.

7. Core Business

Core business means the regulated activities of generation or any regulated business as per Section 12 of the Act and does not include any other business or activity of a generating company or a licensee.

8. Income of Other Business

- (1) Other business means any business by the licensee other than the licensed business undertaken for optimum utilization of assets.

- (2) In the event a licensee engaged in any other business, he shall give prior intimation in writing to the Commission of such other Business.
- (3) Revenue from other business shall be treated as income to the extent authorized by the Commission under Section 41 and 51 of the Act.

9. Foreign Exchange Rate Variation (FERV)

Extra rupee liability towards interest payment and loan repayment corresponding to the normative foreign debt or actual foreign debt, whichever is lower, in the relevant year shall be permissible provided it directly arises out of Foreign exchange rate variation and is not attributable to the generating company or the licensee or its suppliers or contractors. Similarly, reduction in Rupee liability shall also be accounted for by the generating company or the licensee. Every generating company or the licensee shall recover Foreign exchange rate variation on a year to year basis as income or expense in the period in which it arises and Foreign exchange rate variation shall be adjusted on a year to year basis.

10. Recovery of Income tax and Foreign Exchange Rate Variation:

Recovery of Income tax and Foreign Exchange Rate Variation shall be done directly by the generating company or the licensee, as the case may be, from the beneficiaries without making any application before the Commission.

Provided that in case of any objections by the beneficiaries to the amounts claimed on account of income tax or Foreign Exchange Rate Variation, the generating company or the licensee, as the case may be, may make an appropriate application before the Commission for its decision.

11. Norms of Operation

- (1) The norms of operation specified in these regulations shall be the norms to be made applicable and these shall not preclude the generating company or the licensee, as the case may be, and the beneficiaries from agreeing to improved norms of operation and in case the improved norms agreed to, such improved norms shall be applicable for the determination of tariff.
- (2) The Commission may decide to defer the normative parameters or extend the deadline of the implementation of the given normative parameters on a case to case basis for existing plants due to mix of vintage, size, technology, fuel grades, site specific conditions etc that might have a bearing on the efficiency of the unit.

The Commission shall review the past operations in detail while providing any relaxation.

- (3) In respect of the generating companies covered under power purchase agreements, the norms in the power purchase agreement will be applicable till the expiry of the contract.

12. Deviation from norms

The tariff for sale of electricity by a generating company or licensee may also be fixed in deviation of the norms specified in these regulations subject to the condition that:

- i) The overall unit tariff rate over the entire life of the asset, calculated on the basis of the norms in deviation, does not exceed the tariff per unit calculated on the basis of the norms specified in these regulations; and
- ii) Any such deviation shall come into effect from the date of approval by the Commission.

13. Sharing of Profits and Losses

13.1 The Commission shall –

- (1) cause the generating company or the licensee, as the case may be, to pass on 35 percent of the profit or gain arising from over achievement of the norm laid down by the Commission or targets set by the Commission, from time to time, to Consumers, by adjustment in the next years ARR and consequential distribution tariff rates;
- (2) allow the generating company or the licensee to retain 35 percent of the profit or gain arising from over achievement of the norm laid down by the Commission or targets set by the Commission, from time to time, for their organization; and
- (3) cause the generating company or licensee as the case may be to deposit the remaining 30 percent of such profit or gain arising from over achievement of the norm laid down by the Commission or targets set by the Commission, from time to time, into a Contingency Reserve Fund which should be operated in a manner specified by the Commission for such purpose. No amount from such contingency reserve fund may be drawn without the prior written approval of the Commission, which may be granted on the arising of such contingency conditions as may be specified by the Commission, through issue of suitable guidelines for such purpose;

13.2 The generating company or the licensee, as the case may be, shall bear the entire loss on account of its failure to achieve the norms laid down by the Commission or targets set by the Commission from time to time, unless it can satisfy the Commission that such losses were incurred after complying with the provisions of these regulations and such Orders as may have been passed by the Commission, for reason which are well beyond normal human control.

14. Regulatory Asset

- (1) Only in extraordinary circumstances, the Commission may allow creation of Regulatory Asset, in case, the Revenue Gap is very substantial and is on account of one time factors such as natural causes or force majeure conditions beyond control of the generating company or the licensee and its full recovery in a single year will result in tariff shock for the consumers:
- (2) The Regulatory Asset so created along with carrying cost shall be liquidated in maximum 3 years period immediately following the year in which it is created.
- (3) The use of the facility of regulatory asset should not be repetitive.

15. Review and Truing-Up

- (1) The Commission shall undertake a 'Review' of the expenses and revenues approved by the Commission in the Tariff Order. While doing so, the Commission shall consider variations between approvals and revised estimates/pre-actuals of sale of electricity, income and expenditure for the relevant year and permit necessary adjustments / changes in case such variations are for adequate and justifiable reasons. Such an exercise shall be called 'Review'.
- (2) After audited accounts of a year are made available, the Commission shall undertake similar exercise as above with reference to the final actual figures as per the audited accounts. This exercise with reference to audited accounts shall be called 'truing-Up'.
- (3) The generating company or the licensee, as the case may be, shall make an application before the Commission, for 'truing up' of ARR of the previous year by 30th September of the following year, on the basis of audited statement of accounts and the Audit Report, thereon. The generating company or the licensee shall get their accounts audited within a specified time frame, either by the

Comptroller & Auditor General of India or by a Statutory Auditor drawn from the panel of Statutory Auditors approved by the Comptroller & Auditor General of India, from time to time, to enable them to file the application for 'truing up' within the specified date, that is 30th September of the following year.

- (4) In case the generating company or the licensee as the case may be, fails to make an application for truing-up of the ARR of previous year by 30th September of the following year, the Commission may, undertake suo-moto 'truing up' of the ARR of previous year and direct the generating company or the licensee as the case may be to produce such data as it may direct.
- (5) The surplus of revenue of any year as a result of review and truing up exercises shall be adjusted in the manner prescribed by these regulations.
- (6) While approving such expenses/revenues to be adjusted in the future years as arising out of the review and / or truing up exercises, the Commission may allow the carrying costs as determined by the Commission of such expenses/revenues. Carrying costs shall be limited to the interest rate approved for working capital borrowings.
- (7) For any revision in approvals, the generating company or the licensee would be required to satisfy the Commission that the revision is necessary due to conditions beyond its control.

16. Multi - Year Tariff

- (1) The Commission may adopt multi-year tariff principles for matters relating to calculation of revenue requirements and tariff determination of the generating companies and the licensees including the extent of investments, deduction of loss levels, other efficiency gains, revision in charges, changes in tariff structure, and such other matters as the Commission may direct by a general or special order.
- (2) The Commission may, as and when it considers appropriate, issue guidelines for filing of Revenue Requirement and Tariff Proposals for a period of more than a single financial year and unless waived by the Commission, the generating company and the licensee shall follow such guidelines issued by the Commission.

Chapter – 3:

DETERMINATION OF TARIFF

17. Filing of Tariff Petition

- (1) Each generating company and the licensee shall file Tariff Petition on or before 30th November each year with the Commission which shall include statements containing calculation of the expected aggregate revenue from charges under it, currently approved tariff and the expected cost of providing services i.e., Aggregate Revenue Requirement (ARR) during the previous year, current year and ensuring year. The information for the previous year should be based on audited accounts and incase audited accounts are not available, audited accounts for the year immediately preceding the previous year should be filed along with un-audited accounts for the previous year.

The tariff application shall also contain tariff proposals so as to fully cover the gap if any, between the expected aggregate revenue at the prevalent tariff and the expected cost of services including schemes for reduction loss levels and other efficiency gains to be achieved.

- (2) The generating company and licensee shall file information in the following formats for the previous year, current year and ensuring year along with their petition.
- a) Formats for Generating Company as provided in Appendix A-(A) & Appendix D.
 - b) Formats for Hydro Generating Company as provided in Appendix A-(B) & Appendix D.
 - c) Formats for Transmission licensee as provided in Appendix B & Appendix D.
 - d) Formats for Distribution licensee as provided in Appendix C & Appendix D.
- (3) The Generating Company and Licensee shall submit a statement on compliance of the directives issued by the Commission in its last tariff order.
- (4) Each petition shall be accompanied by such fee as may be prescribed by the Commission.
- (5) The petition shall be supported with an affidavit by an authorized person or a person who is acquainted with all facts, stated in the application.
- (6) The petition shall be sent by registered post acknowledgement due or by hand delivery. In addition to the hard copies, the information shall necessarily be submitted in such electronic form, as the Commission may require.

- (7) Every new licensee shall file with the Commission, within one month of grant of license, a tariff petition along with details as stated in sub-regulation 17.2. Every new generating company shall file a petition with the Commission, at least three months ahead of commencement of commercial operations.
- (8) In case a generating company or the licensee carries on any business other than the licensed business, the licensee shall give separate revenue statements, balance sheet and cash-flow statement together with such details as the Commission may require in respect of such businesses.
- (9) The Commission shall scrutinize the annual accounts, norms achieved and the information submitted under Annual Revenue Requirement. The Commission may seek any further information, particulars and documents to enable to assess the petitioner's calculations.
- (10) On receipt of further required data / information considered necessary, the Commission may take the petition on record for further processing.
- (11) The Commission may reject the petition for reasons to be recorded in writing, if such petition is not in accordance with the provisions of the Act and the rules and regulations made there under or the provisions or any other law for the time being in force provided that the petitioner shall be given a reasonable opportunity of being heard before rejecting his application.
- (12) In case the generating company or the licensee does not submit the Tariff application within the time allowed by the Commission, the Commission may consider taking up the matter suo-moto.

18. Publication of Tariff application

- (1) The applicant shall publish the tariff petition in such abridged form and manner as may be specified by the Commission, in atleast two daily newspapers, one in English and the other in local language having wide circulation in the area of supply inviting objections / suggestions within the specified date from general public and stake holders.
- (2) The applicant shall submit within 15 (fifteen) days of publication of the notice, copies of the newspapers wherein the notice has been published, supported by an affidavit to such effect.
- (3) The copies of the application with all enclosures shall be available for sale at a reasonable cost at such offices of the applicant as may be directed by the Commission. Facility, for procuring the copy of the petition by post shall also be provided. The petition with all enclosure in full shape shall be posted at the applicants website in downloadable format.

- (4) All suggestions / objections in response to the public notice shall be sent to the Secretary of the Commission at its head quarters office with a copy to the applicant.
- (5) The applicant shall file his response / comments / remarks on the suggestions / objections received within 15 days from the last date of receipt of such suggestion / objections with the Commission along with a copy to the objector.
- (6) Incase the applicant is unable to respond to any objection, justifiable reasons for not responding shall be furnished. Replies such as 'no comments' etc to any objection(s) shall not be entertained.
- (7) If the applicant fails to respond to any suggestion / objection within the given time, it will be construed that the applicant has no response / comments to offer and the Commission shall proceed to decide the matter in a manner as it deems fit and fair.
- (8) The Commission may consider granting extra time to the applicant to file their response / comments, provided the reasons for such extension of time are found reasonable.

19. Hearing on the application

- (1) The Commission shall initiate a proceeding on the revenue calculations and tariff proposals given by the applicant and may hold public hearing(s) to decide on such revenue calculations and tariff proposals.
- (2) The procedure for public hearing of the tariff application shall be in the manner as specified by the Commission.

20. Order of the Commission

- (1) Within a period of 120 days from the date of acceptance of the tariff application and after considering the proceedings of the hearing(s) as well as suggestions / objections received in response to the public notice, the Commission shall issue the tariff order, communicating its decisions on the aggregate revenue requirement, revenue calculations and Tariff proposals to the generating company or the licensee as the case may be.
- (2) Tariff will come into force with effect from the date as specified in the Tariff order.
- (3) The Commission shall forward within 7 days of passing the order, a copy of the order to the State Government, the Central Electricity Authority, the concerned generating company or licensee and other authorities, as may be necessary.
- (4) The Commission shall post the tariff order in its website.
- (5) The tariff order shall, unless amended or revised, continue to be in force for such period as may be specified in the Tariff order.

21. Publication of Tariff Order

- (1) The generating company or the licensee shall publish the tariff or tariff approved by the Commission in two newspapers having wide circulation in the area of supply as the Commission may direct.
- (2) Copies of the Company's tariff notification shall be made available by the generating company or licensee to any person on payment of an amount fixed by the Commission.

22. Review of Tariff Order

- (1) All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:
 - a) the review petition is filed within sixty days for the date of the tariff order, and / or
 - b) there is an error apparent on the face of the record.
- (2) On being satisfied that there is a need to review the tariff of any generating company or the licensee, the Commission may on its own initiate process of review of the tariff of any generating company or the licensee. The Commission may also, in its own motion review any tariff order to correct any clerical error or any error apparent of the face of the record.

23. Amendment to Tariff

The tariff determined and notified as above may not be amended more frequently than once in any financial year, except that tariff rates shall be adjusted in accordance with any adjustment formulae, including variable cost adjustment formula, incorporated in the tariff order or in any order of the Commission.

Provided that the consequential orders, which the Commission may issue to give effect to the subsidy by the State Government shall not be constructed as amendment of the tariff notified.

Chapter – 4:
GENERATION
A: THERMAL POWER GENERATING STATION

24. Definitions

Unless the context otherwise requires, for the purpose of this part:

- (a) **“Auxiliary Energy Consumption”** (AUX) in relation to a period means the quantum of energy consumed by auxiliary equipment of the generating station and transformer losses within the generating station, and shall be expressed as a percentage of the sum of gross energy generated at the generator terminals of all the units of the generating station;
- (b) **“Plant Availability Factor”** in relation to a generating station for any period means the average of the daily average declared capacities (DCs) for all the days during that period expressed as a percentage of the installed capacity in MW of reduced by the normative auxiliary energy consumption in MW, and shall be computed in accordance with the following formula:

$$\text{Availability} = 10000 \times \sum_{i=1 \text{ to } N} (DC_i) / \{ N \times IC \times (100 - AUX_n) \} \%$$

where,

- (i) IC = Installed Capacity of the generating station in MW,
 - (ii) DC_i = Average declared capacity for the i^{th} day of the period in MW,
 - (iii) N = Number of days during the period, and
 - (iv) AUX_n = Normative Auxiliary Energy Consumption as a percentage of gross generation;
- (c) **“Beneficiary”** in relation to a generating station means the person buying power generated at such a generating station on payment of Annual Fixed Charges;
- (d) **‘Date of Commercial operation’ or COD** means

In relation to a unit or block of the thermal generating station, the date declared by the generating company after demonstrating the maximum continuous rating (MCR) or the installed capacity (IC) through a successful trial run after notice to the beneficiaries, from 0000 hour of which scheduling process as per the Indian Electricity Grid Code (IEGC) is fully implemented,

and in relation to the generating station as a whole, the date of commercial operation of the last unit or block of the generating station.

- (e) **“Declared Capacity”** (DC) shall mean the capability of the generating station to deliver ex-bus electricity in MW declared by such generating station in relation to any time block of the day or whole of the day, duly taking into account the availability of fuel or water and subject to further qualification in the relevant regulations.
- (f) **“Gross Calorific Value”** (GCV) in relation to a thermal generating station means the heat produced in kCal by complete combustion of one kilogram of solid fuel or one litre of liquid fuel or one standard cubic meter of gaseous fuel, as the case may be;
- (g) **“Gross Station Heat Rate”** (SHR) means the heat energy input in kCal required to generate one kWh of electrical energy at generator terminals;
- (h) **“Infirm Power”** means electricity injected into the grid prior to the commercial operation of a unit or a block of the generating station;
- (i) **“Installed Capacity”** (IC) means the summation of the nameplate capacities of all the units of the generating station or the capacity of the generating station (reckoned at the generator terminals) approved by the Commission from time to time.
- (j) **“Maximum Continuous Rating”** (MCR) in relation to a unit of the thermal power generating station means the maximum continuous output at the generator terminals, guaranteed by the manufacturer at rated parameters, and in relation to a unit or block of a combined cycle thermal power generating station means the maximum continuous output at the generator terminals, guaranteed by the manufacturer with water/steam injection (if applicable) and corrected to 50 Hz grid frequency and specified site conditions;
- (k) **“Plant Load Factor”** (PLF) for a given period, means the total sent out energy corresponding to scheduled generation during the period, expressed as a percentage of sent out energy corresponding to installed capacity in that period and shall be computed in accordance with the following formula:

$$\text{Plant Load Factor} = 10000 \times \sum (SG_i) / \{ N \times IC \times (100 - AUX_n) \} \%$$

$i=1 \text{ to } N$

where,

- (i) IC = Installed Capacity of the generating station in MW,
- (ii) SG_i = Scheduled Generation in MW for the i th time block of the period,
- (iii) N = Number of time blocks during the period, and
- (ii) AUX_n = Normative Auxiliary Energy Consumption as a percentage of gross generation;

- (l) **“Scheduled Generation”** (SG) at any time or for any period or time block means schedule of generation in MW ex-bus given by the State Load Despatch Centre.

Note:

- (i) For a gas turbine generating station or a combined cycle generating station if the average frequency for any time block, is below 49.52 Hz but not below 49.02 Hz and the scheduled generation is more than 98.5% of the declared capacity, the scheduled generation shall be deemed to have been reduced to 98.5% of the declared capacity, and if the average frequency for any time block is below 49.02 Hz and the scheduled generation is more than 96.5% of the declared capacity, the scheduled generation shall be deemed to have been reduced to 96.5% of the declared capacity.
- (m) **‘State Load Despatch Centre’** (SLDC) means the centre established by the State Government for purpose of exercising the powers and discharging functions under Section 31 of the Act.
- (n) **“Unit”** in relation to a thermal generating station other than the combined cycle thermal generating station means steam generator, turbine-generator and auxiliaries, or in relation to a combined cycle thermal generating station, means turbine generator and auxiliaries.
- (o) **‘Useful life’** in relation to a unit of generating station from the date of commercial operation shall mean the following;

(a) Coal / Lignite based thermal generating station	25 Years
(b) Gas / Liquid fuel based thermal generating station	25 Years
(c) Hydro generating station	35 Years

25. Tariff Filing

- (1) The generating company shall file the petition for Annual Revenue Requirement (ARR) and determination of tariff for supply of electricity to distribution licensees in the manner specified in Chapter-2 of these regulations.
- (2) In case of a new generating station, a generating company shall file petition for determination of provisional tariff in advance of the anticipated date of commissioning of a generating station based on the capital expenditure actually incurred up to the date of making the petition or a date prior to making of the petition, duly audited and certified by the statutory auditors and the provisional tariff shall be charged from the date of commercial operation of the generating station.
- (3) A generating company shall file a fresh petition as per these regulations, for determination of final tariff of a generating station mentioned in clause (2) above based on actual capital expenditure incurred up to the date of commercial operation of the generating station duly certified by the statutory auditors based on annual audited accounts.
- (4) Any difference between the provisional tariff and the final tariff determined by the Commission and not attributable to the generating company may be adjusted in the tariff for the following year as directed by the Commission.

26. Tariff Determination**(1) Existing Generating Station**

Where the Commission has, at any time prior to the notification of these regulations, approved a Power Purchase Agreement (PPA) or arrangement between a generating company and a beneficiary, or has adopted the tariff contained therein for supply of electricity from an existing generating station then the tariff for supply of electricity by the generating company to the distribution licensee shall be in accordance with such PPA or arrangement for such period as may be so approved or adopted by the Commission, to the extent of existing installed capacity as contained in the PPA.

(2) New Generating Station

Where the generating station has been declared under commercial operation from a date after the issue of these regulations the tariff for supply of electricity by the generating company shall be decided in accordance with these regulations.

27. Capital Cost

- (1) The actual capital expenditure as on the date of commercial operation in the case of new investment shall be subject to prudence check by the Commission.
- (2) The capital cost may include capitalized initial spares as follows:-
 - a) Up to 2.5% of original approved cost in case of coal based generating stations;
 - b) Up to 4% of original approved cost in the case of gas turbine / combined cycle generating stations.
- (3) Where PPA entered into between generating company and the beneficiary provides for a ceiling of actual expenditure, the capital expenditure to be considered shall not exceed the ceiling for determination of tariff.
- (4) Scrutiny of the cost estimates by the Commission shall be limited to the reasonableness of the capital cost, financing plan, interest during construction, use of efficient technology and such other matters for determination of tariff.
- (5) In case of any abnormal delay in execution of the project causing cost and time overruns, attributable to the failure of the generator in executing the project the Commission may not approve the capitalization of interest and overhead expenses in full but limit it to a reasonable amount only.
- (6) The project cost already admitted by the Commission for purpose of tariff fixation shall be considered as the original project cost.

28. Additional Capitalization

- (1) The following capital expenditure, actually incurred after the date of commercial operation and upto the cut off date may be admitted by the Commission subject to prudence check provided the same was part of the original scope of work of the project.
 - a) Undischarged liabilities,
 - b) Works deferred for execution,
 - c) Procurement of initial capital spares in the original scope of works subject to the ceiling specified above.
 - d) Liabilities to meet award of arbitration or compliance of the order or decree of a court, and
 - e) On account of change in law.

Provided that the details of works included in the original scope of work along with estimates of expenditure undischarged liabilities and works deferred for execution shall be submitted along with the application for determination of tariff.

- (2) The capital expenditure of the following nature actually incurred after the cut-off date may be admitted by the Commission, subject to prudence check:
 - (a) Deferred works relating to ash pond or ash handling system in the original scope of work,
 - (b) Liabilities to meet award of arbitration or compliance of the order or decree of court,
 - (c) On account of change in law, and
 - (d) Any additional works/service which have become necessary for efficient and successful operation of the project but not included in the original project cost.
- (3) Any expenditure on acquiring minor items / assets like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machines, heat-convectors, mattresses, carpets, etc brought after the cut-off date shall not be considered for additional capitalization for determination of tariff with effect from 1- 4 - 2010.

Note

The list of items is illustrative and not exhaustive.

28(a) Renovation and Modernisation

- 1) The generating company for meeting the expenditure on renovation and modernization (R&M) for the purpose of extension of life beyond the useful life of the generating station or a unit thereof, shall make an application before the Commission for approval of the proposal with a detailed project report giving complete scope, justification, cost-benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost (including foreign exchange component, if any) record of consultation with beneficiaries and any other information considered to be relevant by the generating company.
- 2) In case of a coal based / lignite based fired thermal generating station, the generating company may, at its discretion, avail of a 'special allowance' in accordance with norms specified in clause(5), as a compensation for meeting the requirement of expenses including renovation and modernization beyond the useful life of the generation station or a unit thereof. In such an event, revision of capital cost shall not

be considered and the applicable operational norms shall not be relaxed but the special allowance shall be included in the annual fixed cost.

Note:

The above option shall not be available for a generating station or a unit for which renovation and modernization has been undertaken and the expenditure has been admitted by the Commission before commencement of these regulations or for a generating station or unit which is in a depleted condition or operating under relaxed operational and performance norms.

- 3) Where generating company makes an application for approval of its proposal for renovation and modernization the Commission shall give its approval after due consideration of reasonableness of cost estimates, financing plan, schedule of completion, interest during construction, use of efficient technology, cost-benefit analysis and such other factors which the Commission may consider relevant.
- 4) Any expenditure incurred or projected to be incurred and admitted by the Commission after prudent check, based on estimates for renovation and modernization already recovered from original project cost, shall form the basis for determination of tariff.
- 5) A generating company, opting for sub-regulation (2) above, for a coal based / lignite fired thermal station shall be allowed special allowance @ Rs. 5 lakhs / MW / year in 2009-10 and thereafter escalated @ 5.72% every year during the tariff period 2009-2014, unit wise from the next financial year from the respective date of completion of useful life with reference to the date of commercial operation of the respective unit of generating station:

29. Debt equity ratio

- (1) For the purpose of determination of tariff, debt-equity ratio in the case of a new generating station commencing commercial operations after the notification of these regulations shall be 70:30. Where equity employed is more than 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance shall be treated as normative loan. Where actual equity employed is less than 30%, the actual equity employed shall be considered.
- (2) In the case of existing generating stations the debt equity ratio as per the Balance Sheet on the date of the Transfer notification will be the debt equity ratio for the first year of operation, subject to such modification as may be found necessary upon audit of the accounts if such Balance Sheet is not audited.

- (3) The debt and equity amounts arrived at in accordance with clause (a) shall be used for calculating interest on loan, return on equity, Advance Against Depreciation and Foreign Exchange Rate Variation.
- (4) Any expenditure incurred or projected to be incurred after notification of these Regulations as may be admitted by the Commission as additional capital expenditure for determination of tariff and renovation and modernization expenditure for life extension shall be served on the manner indicated in sub-regulation (1) above.

30. Components of Tariff

- 1) Tariff for sale of electricity from a thermal power generating station shall comprise of two parts, namely, the recovery of annual capacity (fixed) charges and energy (variable) charges to be worked out in the manner provided hereinafter.
- 2) The fixed cost of a generating station eligible for recovery through annual capacity charges shall consist of:
 - a) Return on equity as may be allowed
 - b) Interest on Loan Capital;
 - c) Operation and maintenance expenses;
 - d) Interest on Working Capital;
 - e) Depreciation, including Advance Against Depreciation as may be allowed.
 - f) Taxes on Income
 - g) Cost of secondary fuel oil (for coal based and lignite fired generating stations only)
- 3) The energy charges shall cover primary fuel charges
- 4) The annual capacity charges recoverable shall be worked out by deducting other income from the total annual expenses.

31. Return on Equity

- (1) Return on equity shall be computed on the equity base determined in accordance with Regulation 29 and shall not exceed 14 %.

Provided that in case of projects commissioned after notification of these regulations, an additional return of 0.5 % shall be allowed if such projects are completed within the time line as specified in CERC Tariff Regulations 2009 (Refer Annexure-I).

Provided that in case of projects commissioned after the notification of these regulations an additional return of 1.5 % shall be allowed if such projects are completed within the original sanctioned project cost without cost over run.

Provided that equity invested in a foreign currency may be allowed a return up to the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing.

- (2) The premium received while issuing share capital shall be treated as a part of equity provided the same is utilized for meeting capital expenditure.
- (3) Internal resources created out of free reserves and utilized for meeting capital expenditure shall also be treated as a part of equity.
- (4) Foreign equity will also attract the same rate of return.

32. Interest and finance charges on loan capital

- (1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate specified therein.

Provided that the outstanding loan capital shall be adjusted to make it consistent with the loan amount determined in accordance with regulation 29.

Provided the interest and finance charges attributable to capital work in progress shall be excluded and shall be considered as part of the capital cost.

Provided that neither penal interest nor over due interest shall be allowed for computation of tariff.

- (2) The generating company shall make every effort to swap loans as long as it results in net benefit to the beneficiaries. The costs associated with such swapping shall be borne by the beneficiaries and any benefit on account of swapping of loan and interest on loan shall be passed on to the beneficiaries.
- (3) In case any moratorium period is availed of in any loan by the generating company, depreciation provided for in the tariff during the years of moratorium shall be treated, as repayment during those years and interest on loan capital shall be calculated accordingly.

33. Operation & Maintenance Expenses

- (1) Operation and Maintenance Expenses (O&M Expenses) shall mean the total of all expenditure under the following heads:-

- (a) Employee Cost;
- (b) Repairs and Maintenance; and

(c) Administration and General Expenses.

- (2) The generating company shall prepare a budget for Operation and Maintenance Expenses indicating for each head of account actual expenditure of the last year, estimate for the current year and projection for the next year and submit it to the Commission along with the tariff petition.
- (3) The generating company shall provide adequate explanations for the basis of allocation of Operation and Maintenance expenditure among the generating stations.
- (4) The Commission shall verify the budget estimates and projections and allow the amount depending on its views about the reasonableness of the projections.
- (5) In verifying the budget for operation and maintenance the generating company may be guided by the following norms laid down in CERC Tariff Regulations, 2009.

Normative operation and maintenance expenses shall be as follows, namely:

(a) Coal based and lignite fired generating stations

Year	(Rs. lakh / MW)			
	200/210/250 MW sets upto 4 Units	300/330/350 MW sets upto 3 Units	500 MW sets upto 2 units	600 MW and above sets upto 2 units
2009-10	18.20	16.00	13.00	11.70
2010-11	19.24	16.92	13.74	12.37
2011-12	20.34	17.88	14.53	13.08
2012-13	21.51	18.91	15.36	13.82
2013-14	22.74	19.99	16.24	14.62

Provided that the above norms shall be multiplied by the following factors for additional units in respective unit sizes for the units whose COD occurs on or after 1-4-2009 in the same station

200/210/250 MW	Additional 5 th & 6 th Units	0.9
	Additional 7 th & more Units	0.85
300/330/350 MW	Additional 4 th & 5 th Units	0.9
	Additional 6 th & more Units	0.85
500 MW and above	Additional 3 rd & 4 th Units	0.9
	Additional 5 th Units	0.85

(b) Open Cycle Gas Turbine / Combined cycle generating station

Year	(Rs. lakh / MW)	
	Gas Turbine / Combined Cycle generating stations other than small gas turbine power generating stations	Small gas turbine power generating station
2009-10	14.80	22.90
2010-11	15.65	24.21
2011-12	16.54	25.59
2012-13	17.49	27.06
2013-14	18.49	28.61

(c) Lignite Fired generating stations

(Rs. lakh / MW)	
Year	125 MW sets
2009-10	24.00
2010-11	25.37
2011-12	26.82
2012-13	28.36
2013-14	29.98

Incase of coal – based or lignite fired thermal generating station, a separate compensation allowance unit wise shall be admissible to meet expenses on new assets of capital nature including the nature of minor assets, in the following manner, from the year following the year of completion of 10,15 or 20 years of useful life:

Year of operation	Compensation Allowance (Rs. lakh / MW / year)
0-10	Nil
11-15	0.15
16-20	0.35
21-25	0.65

34. Interest on Working Capital

(1) Working capital requirements are calculated using the following components:

(a) For Coal based-fired generating stations

- b) Cost of coal for one and a half months for pit-head generating stations and two months for non-pit-head generating stations, corresponding to target availability, respectively;
- c) Cost of secondary fuel oil for two months corresponding to target availability;

- d) Operation and Maintenance expenses for one month;
- e) Maintenance spares @ 1% of the historical cost escalated @ 6% per annum from the date of commercial operation.; and
- f) Receivables equivalent to two months of fixed and variable charges for sale of electricity calculated on target availability.

(b) For Gas Turbine/Combined Cycle generating stations

- a) Fuel cost for one month corresponding to target availability duly taking into account the mode of operation of the generating station on gas fuel and liquid fuel;
 - b) Liquid fuel stock for fifteen days
 - c) Operation and maintenance expenses for one month;
 - d) Maintenance spares @ 1% of the historical cost escalated @ 6% per annum from the date of commercial operation ; and
 - e) Receivables equivalent to two months of fixed and variable charges for sale of electricity calculated on target availability.
- 2) Rate of interest on working capital to be computed as provided subsequently in these Regulations shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1st April of the financial year for which the generating station or the licensee files petition for Annual Revenue Requirement and tariff proposal. The interest on working capital shall be calculated on normative basis notwithstanding that the licensee or the generating company has not taken working capital loan from any outside agency.

35. Depreciation

For the purpose of tariff determination, depreciation shall be computed in the following manner:

- a) The asset value for the purpose of depreciation shall be the historical cost of the assets as approved by the Commission where:

The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited. Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.

- b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.
- c) The salvage value of the assets shall be considered at 10% and depreciation shall be allowed upto maximum of 90 % of the capital cost of the asset.
- d) Depreciation shall be calculated annually as per straight-line method at the rates specified in Appendix-III of CERC (Terms and Conditions of Tariff) Regulations, 2009.

Provided that land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the historical cost of the asset.

- e) Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.
- f) The remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of commercial operation shall be spread over the balance useful life of the asset.

36. Income Tax

- (1) Income Tax shall be treated as expense and shall be recoverable from the beneficiaries through tariff.
- (2) The income tax actually payable or paid shall be included in the ARR. The actual assessment of income tax should take into account benefits of the tax holiday, and the credit carry forward losses applicable as per the provisions of the Income Tax Act 1961 shall be passed on to the consumers.
- (3) Tax on income, if, any, liable to be paid shall be limited to tax on return on the equity component of capital employed. However any tax liability on incentives due to improved performance shall not be considered.
- (4) Any under recovery or over-recovery of tax on income shall be adjusted every year on the basis of income tax assessment under the Income-Tax Act 1961 as certified by the statutory auditors.

37. Expenses on secondary fuel oil consumption for coal-based, lignite-fired generating station

- (1) Expenses on secondary fuel oil in Rupees shall be computed corresponding to normative secondary fuel oil consumption (SFC) specified in clause (3) of Regulation 39, in accordance with the following formula:

SFC x LPSFi x NAPAF x 24 x NDY x IC x 10

Where,

SFC – Normative Specific Fuel Oil consumption in ml/kWh

LPSFi – Weighted Average Landed Price of Secondary Fuel in Rs./ml
considered initially

NAPAF– Normative Annual Plant Availability Factor in percentage

NDY – Number of days in a year

IC – Installed Capacity in MW.

- (2) Initially, the landed cost incurred by the generating company on secondary fuel oil shall be taken based on actuals of the weighted average price of the three preceding months and in the absence of landed costs for the three preceding months, latest procurement price for the generating station, before the start of the year.
- (3) The secondary fuel oil expenses shall be subject to fuel price adjustment at the end of the each year of tariff period as per following formula:

SFC x NAPAF x 24 x NDY x IC x 10 x (LPSFy – LPSFi)

Where,

**LPSFy = The weighted average landed price of secondary fuel oil for the
year in Rs. /ml**

38. Computation and payment of capacity charge and energy charge for thermal generating stations

(A) Capacity Charge:

- (1) The fixed cost of a thermal generating station shall be computed on annual basis, based on norms specified under these regulations, and recovered on monthly basis under capacity charge.

The total capacity charge payable for a generating station shall be shared by its beneficiaries as per their respective percentage share / allocation in the capacity of the generating station.

- (2) The capacity charge (inclusive of incentive) payable to a thermal generating station for a calendar month shall be calculated in accordance with the following formulae :
 - (a) Generating stations in commercial operation for less than ten (10) years on 1st April of the financial year :

AFC x (NDM / NDY) x (0.5 + 0.5 x PAFM / NAPAF) (in Rupees);

Provided that in case the plant availability factor achieved during a financial year (PAFY) is less than 70%, the total capacity charge for the year shall be restricted to

AFC x (0.5 + 35 / NAPAFA) x (PAFY / 70) (in Rupees).

- (b) For generating stations in commercial operation for ten (10) years or more on 1st April of the year:

AFC x (NDM / NDY) x (PAFM / NAPAFA) (in Rupees).

Where,

AFC = Annual fixed cost specified for the year, in Rupees.

NAPAFA = Normative annual plant availability factor in percentage

NDM = Number of days in the month

NDY = Number of days in the year

PAFM = Plant availability factor achieved during the month, in percent:

PAFY = Plant availability factor achieved during the year, in percent

- (3) The PAFM and PAFY shall be computed in accordance with the following formula:

$$\text{PAFM or PAFY} = 10000 \times \frac{\sum_{i=1}^N \text{DC}_i}{\{ N \times \text{IC} \times (100 - \text{AUX}) \}} \%$$

Where,

AUX = Normative auxiliary energy consumption in percentage.

DC_i = Average declared capacity (in ex-bus MW)

IC = Installed Capacity (in MW) of the generating station

N = Number of days during the period i.e. the month or the year as the case may be.

Note : DC_i and IC shall exclude the capacity of generating units not declared under commercial operation. In case of a change in IC during the concerned period, its average value shall be taken.

(B) Energy Charge:

- (1) The energy charge shall cover the primary fuel cost and shall be payable by every beneficiary for the total energy scheduled to be supplied to such beneficiary during the calendar month on ex-power plant basis, at the energy charge rate of the month (with fuel price adjustment). Total Energy charge payable to the generating company for a month shall be:

$$= (\text{Energy charge rate in Rs./kWh}) \times \{ \text{Scheduled energy (ex-bus) for the month in kWh} \}$$

(2) Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis shall be determined to three decimal places in accordance with the following formulae:

(a) For coal based and lignite fired stations

$$\text{ECR} = \{ (\text{GHR} - \text{SFC} \times \text{CVSF}) \times \text{LPPF} / \text{CVPF} + \text{LC} \times \text{LPL} \} \times 100 / (100 - \text{AUX})$$

(b) For gas and liquid fuel based stations

$$\text{ECR} = \text{GHR} \times \text{LPPF} \times 100 / \{ \text{CVPF} \times (100 - \text{AUX}) \}$$

Where,

AUX	=	Normative auxiliary energy consumption in percentage.
CVPF	=	Gross calorific value of primary fuel as fired, in kCal per kg, per Litre or per standard cubic metre, as applicable.
CVSF	=	Calorific value of secondary fuel, in kCal per ml.
ECR	=	Energy charge rate, in Rupees per kWh sent out.
GHR	=	Gross station heat rate, in kCal per kWh.
LC	=	Normative limestone consumption in kg per kWh.
LPL	=	Weighted average landed price of limestone in Rupees per kg.
LPPF	=	Weighted average landed price of primary fuel, in Rupees per kg, per litre or per standard cubic metre, as applicable, during the month.
SFC	=	Specific fuel oil consumption, in ml per kWh.

(3) The landed cost of fuel for the month shall include price of fuel corresponding to the grade and quality of fuel inclusive of royalty, taxes and duties as applicable, transportation cost by rail / road or any other means, and, for the purpose of computation of energy charge, and in case of coal/lignite shall be arrived at after considering normative transit and handling losses as percentage of the quantity of coal or lignite dispatched by the coal or lignite supply company during the month as given below :

Pit head generating stations	:	0.2%
Non-pit head generating stations	:	0.8%

39. Norms of Operation

Recovery of capacity charge, energy charge and incentive by the generating company shall be based on the achievement of the operational norms

The norms of operation as given below shall apply to thermal generating stations

(1) Normative Annual Plant Availability Factor (NAPAF)

- | | |
|--|------|
| (a) All Thermal generating station | 85 % |
| (b) Lignite fired generating station using
Circulatory Fluidized Bed Combustion (CFBC) Technology | |

- | | |
|--|------|
| (i) First three years from COD | 75 % |
| (ii) From next year after completion of 3 years of COD | 80 % |

(2) Gross Station Heat Rate

- | | |
|---|-----------------|
| (i) Coal-based thermal power generating stations, | |
| During stabilization period | 2600 kCal / kWh |
| Subsequent period | 2500 kCal / kWh |
| (ii) Gas Turbine / Combined Cycle generating stations | |
| Open cycle | 2830 kCal / kWh |
| Combined cycle | 1950 kCal / kWh |

(c) Secondary fuel oil consumption

- | | | |
|--|---|--------------|
| (i) Coal-based generating stations | - | 1.0 ml / kwh |
| (ii) Lignite fired generating stations | - | 2.0 ml/kWh |

(d) Auxiliary Energy Consumption

- (a) Coal-based generating stations with natural draft cooling tower or without cooling tower:

- | | | |
|--------------------------------------|---|------|
| (i) 200 MW series | - | 8.5% |
| (ii) 500 MW and above | | |
| Steam driven boiler feed pumps | - | 6.0% |
| Electricity driven boiler feed pumps | - | 8.5% |

Provided that for thermal generating stations with induced draft cooling towers, the norm shall be further increased by - 0.5%

- (b) Gas turbine / combined cycle generating stations:

- | | | |
|--------------------|---|------|
| (i) Combined cycle | - | 3.0% |
| (ii) Open cycle | - | 1.0% |

- (c) Lignite fired thermal generating stations:

- (iii) All generating stations with 200 MW sets and above:

The auxiliary energy consumption norms shall be 0.5% more than the auxiliary consumption norms of coal-based generating stations as in

(d) (a) above

For lignite fired stations using CFBC technology the auxiliary consumption norm shall be 1.5% more than the auxiliary consumption norms of coal based generating stations as in (iv) (a) above.

40. SLDC and Connectivity Charges

- (1) SLDC and Connectivity charges are determined by the Commission and payable by the generating companies shall be considered as expenses.
- (2) SLDC and Transmission charges paid for the energy sold outside the state shall not be considered as expenses for determining generation tariff.

41. Other Income

Income other than income from sale of energy and UI charges gained (after introduction of intra state ABT) shall be grouped as other income. UI penalties shall not be netted off from other income. The UI penalties shall be borne by the generating company.

42. Sale of Infirm Power

Any revenue other than the recovery of fuel cost earned by the generating company from sale of infirm power shall be taken as reduction in capital cost and shall not be treated as revenue.

43. Unscheduled Interchange Charges

- (1) Variation between actual generation or actual drawal and scheduled generation or scheduled drawal shall be accounted for through Unscheduled Interchange (UI) Charges. UI for a generating station shall be equal to its actual generation minus its scheduled generation. UI shall be worked out for each 15 minutes time block. Charges for all UI transactions shall be based on average frequency of the time block and rates as specified by CERC from time to time.
- (2) UI charges for intra-state transactions will arise after intra-state ABT is notified by the Commission and becomes effective.

44. Rebate

- (1) For payment of bills of generating company through letter of credit on presentation, a rebate of 2% shall be allowed.
- (2) Where payments are made subsequently within a period of one month of presentation of bills by the generating company, a rebate of 1% shall be allowed.

45. Late Payment surcharge

In case the payment of any bill for charges payable under these regulations is delayed by a beneficiaries beyond a period of two months from the date of billing a late payment surcharge at the rate of 1.25% per month shall be levied by the generating company.

B: HYDRO POWER GENERATING STATION

46. Definitions

Unless the context otherwise requires for the purpose of this part

- (a) **“Auxiliary Energy Consumption”** in relation to a period means the quantum of energy consumed by auxiliary equipment of the generating station and the transformer losses within the generating station, and shall be expressed as a percentage of the sum of gross energy generated at generator terminals of all the units of the generating station;
- (b) **“Capacity Index”** means the average of the daily capacity indices over one year;
- (c) **“Daily Capacity Index”** means the declared capacity expressed as a percentage of the maximum available capacity for the day and shall be mathematically expressed as hereunder:

$$\text{Daily Capacity Index} = \frac{\text{Declared Capacity (MW)}}{\text{Maximum Available Capacity (MW)}} \times 100$$

(d) **“Declared Capacity” (DC)**

- i) For run-of-river power station with pondage and storage-type power stations, declared capacity means the ex-bus capacity in MW expected to be available from the generating station over the peaking hours of next day, as declared by the generator, taking into account the availability of water, optimum use of water and availability of machines and for this purpose, the peaking hours shall not be less than 3 hours within a 24 hours period.
- ii) In case of purely run-of-river power stations, declared capacity means the ex-bus capacity in MW expected to be available from the generating station during the next day, as declared by the generating station, taking into account the availability of water, optimum use of water and availability of machines;
- (e) **“Deemed Generation”** means the energy, which a generating station was capable of generating but could not generate due to the conditions of grid or power system beyond the control of generating station.
- (f) **“Design Energy”** shall mean the quantum of energy, which could be generated in a 90% dependable year with 95% installed capacity of the generating station.

(g) **‘Date of Commercial operation or COD’** means

In relation to a unit of hydro generating station, the date declared by the generating company from 0000 hours of which, after notice to the beneficiaries, scheduling process in accordance with the Indian Electricity Grid Code is fully

implemented, and in relation to the generating station as a whole, the date declared by the generating company after demonstrating peaking capability corresponding to installed capacity of the generating station through a successful trial run, after notice to the beneficiaries:

Note:

1. In case the hydro generating station with pondage or storage is not able to demonstrate peaking capability corresponding to the installed capacity for the reasons of insufficient reservoir or pond level, the date of commercial operation of the last unit of the generating station shall be considered as the date of commercial operation of the generating station as a whole, provided that it will be mandatory for such hydro generating station to demonstrate peaking capability equivalent to installed capacity of the generating unit or the generating station as and when such reservoir / pond level is achieved.
 2. In case of purely run-of-river hydro generating station if the unit or the generating station is declared under commercial operation during lean inflows period when the water is not sufficient for such demonstration, it shall be mandatory for such hydro generating station or unit to demonstrate peaking capability equivalent to installed capacity as and when sufficient inflow is available.
- (h) **'Infirm Power'** means electricity generated prior to commercial operation of the Unit of a generating station.
- (i) **"Maximum Available Capacity"** shall mean the following:
- (i) Run-of-river power station with pondage and storage type power stations:
The maximum capacity in MW, the generating station can generate with all units running, under the prevailing conditions of water levels and flows, over the peaking hours of next day,

Provided that the peaking hours for this purpose shall not be less than 3 hours within a 24 hours period.
 - (ii) Purely run-of-river power stations:
The maximum capacity in MW, the generating station can generate with all units running, under the prevailing conditions of water levels and flows over the next day.
- (j) **"Primary Energy"** means the quantum of energy generated up to the design energy on per year basis at the generating station;

- (k) **“Run-of-river power station”** means a hydro electric power generating station which has no upstream pondage;
- (l) **“Run –of-river power station with pondage”** means a hydro electric power generating station with sufficient pondage for meeting the diurnal variation of power demand;
- (m) **“Storage Type power station”** means a hydro electric power generating station associated with large storage capacity to enable variation of generation of power according to demand;
- (n) **“Saleable Primary Energy”** means the quantum of primary energy available for sale (ex-bus) after allowing for free energy to home state, if any.
- (o) **“Secondary Energy”** means the quantum of energy generated in excess of the design energy on per year basis at the generating station;
- (p) **“Saleable Secondary Energy”** means the quantum of secondary energy available for sale (ex-bus) after allowing for free energy to home state, if any.
- (q) **“Scheduled Energy”** means the quantum of energy to be generated at the generating station over the 24-hours period, as scheduled by the State Load Dispatch Centre;
- (r) **‘Useful Life’** means in respect of a hydro generating station 35 years.

47. Tariff Filing

- (1) The generating company shall file the petition for Annual revenue Requirement (ARR) and determination of tariff for supply of electricity to distribution licensees in the manner specified in Chapter-2 of these regulations.
- (2)
 - (a) In case of a new generating station, a generating company shall file petition for determination of provisional tariff in advance of the anticipated date of commissioning of a generating station based on the capital expenditure actually incurred up to the date of making the petition or a date prior to making of the petition, duly audited and certified by the statutory auditors and the provisional tariff shall be charged from the date of commercial operation of the generating station.
 - (b) A generating company shall file a fresh petition as per these regulations, for determination of final tariff of a generating station mentioned in clause (2) above based on actual capital expenditure incurred up to the date of commercial operation of the generating station duly certified by the statutory auditors based on annual audited accounts.

- (3) Any difference between the provisional tariff and the final tariff determined by the Commission and not attributable to the generating company may be adjusted in the tariff for the following year as directed by the Commission.

48. Tariff determination

- (1) Existing Generating Station

Where the Commission has, at any time prior to the notification of these Regulations, approved a Power Purchase Agreement (PPA) or arrangement between a Generating Company and a beneficiary, or has adopted the tariff contained therein for supply of electricity from an existing generating station then the tariff for supply of electricity by the Generating Company to the Distribution Licensee shall be in accordance with such PPA or arrangement for such period as may be so approved or adopted by the Commission, to the extent of existing Installed Capacity as contained in the PPA.

- (2) New Generating Station

Where the generating station has been declared under commercial operation from a date after the issue of these regulations the tariff for supply of electricity by the Generating Company shall be decided in accordance with these regulations.

49. Capital Cost

- (1) The actual capital expenditure on the date of commercial operation in the case of new investment shall be subject to prudence check by the commission.
- (2) Scrutiny of cost estimates by the Commission shall be limited to the reasonableness of the capital cost, financial plan, and interest during construction period, use of efficient technology, and such other matters for determination of tariff.
- (3) In case of any abnormal delay in execution of the project causing cost and time overruns attributable due to the failure of the utility, the Commission may not approve the full capitalization of interest and overhead expenses.
- (4) Where power purchase agreement entered into between generating company and the beneficiary provides for a ceiling of actual expenditure, the capital expenditure to be considered shall not exceed such ceiling.
- (5) The capital cost may include capitalized initial spares up to 1.5% of original Project cost.

(6) The project cost already admitted by the Commission for purpose of tariff determination shall be considered as the original project cost.

(7) The Commission shall issue guidelines for:

- a. Verifying the capital cost of Hydro electric projects by an independent agency or expert and in such a case, the capital cost as vetted by such agency or expert may be considered by Commission while determining the tariff for hydro generating station.
- b. Scrutiny and approval of commissioning schedule for hydro electric power projects of a developer, not being a state controlled or owned company as envisaged in the tariff policy, as amended in GOI Resolution No. 23/2/2005-R&R (Vol IV) dated 31.3.2008.

(8) In case the site of a hydro generating station is awarded to a developer (not being a state controlled or owned company), by a State Government by following a two stage transparent process of bidding, any expenditure incurred or committed to be incurred by the project developer for getting the project site allotted shall not be included in the capital cost.

Provided the capital cost in case of such hydro station shall include:

- (a) Cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity of National R&R policy and (R&R) package as approved; and
- (b) Cost of the developer's 10% contribution towards Rajiv Gandhi Grameen, Vidutikaran Yojana (RGGVY) project in affected area:

50. Additional Capitalization

(1) The following capital expenditure, actually incurred after the date of commercial operation and up to the cut off date may be admitted by the Commission subject to prudence check provided the same was part of the original scope of work of the project.

- a) Un-discharged liabilities,
- b) Works deferred for execution,
- c) Procurement of initial capital spares in the original scope of works subject to the ceiling specified above.
- d) Liabilities to meet award of arbitration or compliance of the order or decree of a court, and
- e) On account of change in law.

Provided that the details of works included in the original scope of work along with estimates of expenditure shall be submitted along with the application for determining of tariff.

- (2) The capital expenditure of the following nature actually incurred after the cut-off date may be admitted by the Commission, subject to prudence check:
- a) Deferred liabilities relating to works/services within the original scope of work,
 - b) Liabilities to meet award of arbitration or compliance of the order or decree of court,
 - c) On account of change in law, and
 - d) Any additional works/service, which have become necessary for efficient and successful operation of the project but not included in the original project cost.
- (3) Any expenditure on acquiring minor items or assets, brought after the cut off date like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machine, heat-convectors, mattresses, carpets, etc. shall not be considered for additional capitalization for determination of tariff with effect from 1-4-2010.

50(a) Renovation and Modernisation

- 1) The generating company for meeting the expenditure on renovation and modernization (R&M) for the purpose of extension of life beyond the useful life of the generating station or a unit thereof, shall make an application before the Commission for approval of the proposal with a detailed project report giving complete scope, justification, cost benefit analysis, estimated life extension from a reference date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost including foreign exchange component, if any) record of consultation with beneficiaries and any other information considered to be relevant by the generating company.
- 2) Where generating company makes an application for approval of its proposal for renovation and modernization the Commission shall give its approval after due consideration of reasonableness of cost estimates, financing plan, schedule of completion, interest during construction, use of efficient technology, cost benefit analysis and such other factors which the Commission may consider relevant.

- 3) Any expenditure incurred or projected to be incurred and admitted by the Commission after prudent check, based on estimates for renovation and modernization already recovered from original project cost, shall form the basis for determination of tariff.

51. Debt equity ratio

- 1) For the purpose of determination of tariff, debt-equity ratio in the case of a new generating station commencing commercial operations after the notification of these regulations shall be 70:30. Where equity employed is more than 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance shall be treated as normative loan. Where actual equity employed is less than 30%, the actual equity employed shall be considered.
- 2) In the case of existing generating stations the debt equity ratio as per the Balance Sheet on the date of the Transfer notification will be the debt equity ratio for the first year of operation, subject to such modification as may be found necessary upon audit of the accounts if such Balance Sheet is not audited.
- 3) The debt and equity amounts arrived at in accordance with clause (a) shall be used for calculating interest on loan, return on equity, Advance Against Depreciation and Foreign Exchange Rate Variation.
- 4) Any expenditure incurred or projected to be incurred after notification of these Regulations as may be admitted by the Commission as additional capital expenditure for determination of tariff and renovation and modernization expenditure for life extension shall be served on the manner indicated in sub-regulation (1) above.

52. Components of tariff

- (1) Tariff for supply of electricity from a hydro power generating station shall comprise of two parts, namely, annual capacity charges and energy charges to be in the manner provided hereinafter.
- (2) The fixed cost of a generating station eligible for recovery through annual capacity charges shall consist of:
 - (a) Return on equity as may be allowed
 - (b) Interest on Loan Capital;
 - (c) Operation and maintenance expenses;
 - (d) Interest on Working Capital;

(e) Depreciation as may be allowed by the Commission.

(f) Taxes on Income

- (3) The annual capacity charges recoverable shall be worked out by deducting other income from the total expenses.

53. Return on Equity

- (1) Return on equity shall be computed on the equity base determined in accordance with regulation 51 and shall not exceed 14 %.

Provided that in case if projects commissioned after notification of these Regulations an additional return of 0.5 % shall be allowed if such projects are completed within the time line specified in CERC Tariff Regulations, 2009. (Refer Annexure-1)

Provided that in case of projects commissioned after the notification of these regulations an additional return of 1.5 % shall be allowed if such projects are completed within the original sanctioned project cost without any time or cost over run, whatsoever.

Provided that equity invested in a foreign currency may be allowed a return up to the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing.

- (2) The premium received while issuing share capital shall be treated as a part of equity provided the same is utilized for meeting capital expenditure.
- (3) Internal resources created out of free reserves and utilized for meeting the capital expenditure shall also be treated as a part of equity.
- (4) Foreign equity will also attract the same rate of return.

54. Interest and finance charges on loan capital

- (1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate prevailing therein.

Provided that the outstanding loan capital shall be adjusted to be consistent with the loan amount determined in accordance with Regulation 51.

- (2) The interest and finance charges attributable to Capital Work in Progress shall be excluded.

- (3) The generating company shall make every effort to swap loans as long as it results in net benefit to the beneficiaries. The costs associated with such swapping shall be borne by the beneficiaries.
- (4) The changes to the loan terms and conditions shall be reflected from the date of such swapping and benefit shared between the beneficiaries and the generating company in a ratio as may be specified by the Commission as envisaged in Regulation 13.2.
- (5) In case any moratorium period is availed of by the generating company, depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly.

55. Operation and maintenance expenses

- (1) Operation and Maintenance Expenses (O & M Expenses) shall mean the total of all expenditure under the following heads: -
 - (a) Employee Cost
 - (b) Repairs and Maintenance
 - (c) Administration and General Expenses.
- (2) Operation and maintenance expenses (O&M Expenses) for the existing generating stations, which have been in operation for 5 years or more in the base year 2007-08 shall be derived on the basis of actual operation and maintenance expenses for the year 2003-04 to 2007-08, based on the audited accounts, excluding abnormal operation and maintenance expenses, if any, after prudent check by the Commission.
- (3) The normalized operation and maintenance expenses after prudent check, for the years 2003-04 to 2007-08, shall be escalated at the rate of 5.17% to arrive at the normalized operation and maintenance expenses at the 2007-08 price level and then averaged to arrive at normalized O&M expenses for 2003-04 to 2007-08 price level. The average normal O&M expenses at 2007-08 price level shall be escalated at the rate of 5.72% to arrive at the O&M expenses for the year 2009-10.
- (4) The O&M expenses for the year 2009-10 shall be further rationalized considering 50% increase in employee cost on account of pay revision of employees to arrive at the permissible O&M expenses for the year 2009-10.

- (5) The O&M expenses for 2009-10 shall be escalated further at the rate of 5.72% per annum as arrive at the operation and maintenance expenses for the subsequent years of the tariff period.
- (6) In case of the hydro generating stations, which have not been in commercial operation for a period of five years as on 1.4.2009, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation & resettlement works). Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @5.17% per annum up to the year 2007-08 and then averaged to arrive at the O&M expenses at 2007-08 price level. It shall be thereafter escalated @ 5.72% per annum to arrive at operation and maintenance expenses in respective year of the tariff period. (The impact of pay revision on employee cost for arriving at the operation and maintenance expenses for the year 2009-10 shall be considered in accordance with the procedure given in proviso to sub-clause (ii) of clause (f) of this regulation).
- (7) In case of hydro generating stations declared under commercial operation on or after 01/04/2009, O&M expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) and shall be subject to annual escalation at 5.72% for the subsequent years.

56. Interest on Working capital

- (1) Working Capital shall cover:
- 1) Operation and Maintenance expenses for one month;
 - 2) Maintenance spares at the rate of 15% of operation and maintenance expenses specified in Regulation 55 above escalated at the rate of 6% per annum from the date of commercial operation and
 - 3) Receivables equivalent to two months of fixed cost.
- (2) Rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1st April of the financial year for which the generating station files petition for annual Revenue Requirement and tariff proposal. The interest on working capital shall be calculated on normative basis notwithstanding that the generating company has not taken working capital loan from any outside agency.

57. Depreciation

For the purpose of tariff determination, depreciation shall be computed in the following manner:

- a) The asset value for the purpose of depreciation shall be the capital cost of the assets as admitted by the Commission where:
The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited.
- b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.
- c) The salvage value of assets shall be as provided in the agreement signed by the developer with the State Government for creation of the asset.
- d) The capital cost of the assets of the Hydro generating station for the purpose of computation of depreciable value shall be correspond to the percentage of sale of electricity under long-term power purchase agreement of regulated tariff.
- e) The land other than the land under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while calculating depreciable value of the asset.
- f) Depreciation shall be calculated annually as per straight – line method at the rates specified in Appendix-III of CERC (Terms and Conditions of Tariff) of Regulations, 2009.
- g) The remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of commercial operation shall be spread over the balance useful life of the asset.
- h) Incase of existing projects the balance depreciable value as on 1-4-2010 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31-3-2010 from the gross depreciation value of asset.
- i) Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.

58. Income Tax

- (1) Income Tax shall be treated as expense and shall be recoverable from consumers through tariff.
- (2) The income tax actually payable or paid shall be included in the ARR. The actual assessment of income tax should take into account benefits of the tax holiday, and the credit carry forward losses applicable as per the provisions of the Income Tax Act 1961 shall be passed on to the consumers.
- (3) Tax on income, if, any liable to be paid shall be limited to tax on return on the equity component of capital employed. However any tax liability on incentives due to improved performance shall not consider.
- (4) Any under recovery or over-recovery of tax on income shall be adjusted every year on the basis of income tax assessment under the Income-Tax Act 1961 as certified by the statutory auditors.

59. Computation and payment of capacity charge and energy charge for Hydro generating stations.

(A) Capacity Charges:

- (1) The fixed cost of a hydro generating station shall be computed on annual basis, based on norms specified under these regulations, and recovered on monthly basis under capacity charge (inclusive of incentive) and energy charge, which shall be payable by the beneficiaries in proportion to their respective allocation in the saleable capacity of the generating station, that is to say, in the capacity excluding the free power to the home State:

Provided that during the period between the date of commercial operation of the first unit of the generating station and the date of commercial operation of the generating station, the annual fixed cost shall provisionally be worked out based on the latest estimate of the completion cost for the generating station, for the purpose of determining the capacity charge and energy charge payment during such period.

- (2) The capacity charge (inclusive of incentive) payable to a hydro generating station for a calendar month shall be

$$= \text{AFC} \times 0.5 \times \text{NDM} / \text{NDY} \times (\text{PAFM} / \text{NAPAF}) \text{ (in Rupees)}$$

Where,

AFC = Annual fixed cost specified for the year, in Rupees.

NAPAF= Normative plant availability factor in percentage

NDM = Number of days in the month

NDY = Number of days in the year
 PAFM = Plant availability factor achieved during the month, in percentage

(3) The PAFM shall be computed in accordance with the following formula:

$$\text{PAFM} = 10000 \times \sum_{i=1}^N \text{DCi} / \{ N \times \text{IC} \times (100 - \text{AUX}) \} \%$$

Where,

AUX = Normative auxiliary energy consumption in percentage
 DCi = Declared capacity (in ex-bus MW) for the ith day of the Month which the station can deliver for at least three (3) hours, as certified by the nodal load dispatch centre after the day is over.
 IC = Installed capacity (in MW) of the complete generating station
 N = Number of days in the month

(B) Energy Charges:

(1) The energy charge shall be payable by every beneficiary for the total energy scheduled to be supplied to the beneficiary, excluding free energy, if any, during the calendar month, on ex power plant basis, at the computed energy charge rate. Total Energy charge payable to the generating company for a month shall be :

$$= (\text{Energy charge rate in Rs. / kWh}) \times \{ \text{Scheduled energy (ex-bus) for the month in kWh} \} \times (100 - \text{FEHS}) / 100.$$

(2) Energy charge rate (ECR) in Rupees per kWh on ex-power plant basis, for a hydro generating station, shall be determined up to three decimal places based on the following formula, subject to the provisions of clause (4) :

$$\text{ECR} = \text{AFC} \times 0.5 \times 10 / \{ \text{DE} \times (100 - \text{AUX}) \times (100 - \text{FEHS}) \}$$

Where,

DE = Annual design energy specified for the hydro generating station, In MWh, subject to the provision in clause (6) below.
 FEHS = Free energy for home State as fixed from time to time, by competent authority.

(3) In case actual total energy generated by a hydro generating station during a year is less than the design energy for reasons beyond the control of the generating company, the following treatment shall be applied on a rolling basis:

(i) in case the energy shortfall occurs within ten years from the date of commercial operation of a generating station, the ECR for the year following the year of energy shortfall shall be computed based on the formula specified in clause (2)

with the modification that the DE for the year shall be considered as equal to the actual energy generated during the year of the shortfall, till the energy charge shortfall of the previous year has been made up, after which normal ECR shall be applicable;

- (ii) in case the energy shortfall occurs after ten years from the date of commercial operation of a generating station, the following shall apply:

Suppose the specified annual design energy for the station is DE MWh, and the actual energy generated during the concerned (first) and the following (second) financial years is A1 and A2 MWh respectively, A1 being less than DE. Then, the design energy to be considered in the formula in clause (5) of this Regulation for calculating the ECR for the third financial year shall be moderated as $(A1 + A2 - DE)$ MWh, subject to a maximum of DE MWh and a minimum of A1 MWh.

- (iii) Actual energy generated (e.g. A1, A2) shall be arrived at by multiplying the net metered energy sent out from the station by $100 / (100 - AUX)$.

- (4) In case the energy charge rate (ECR) for a hydro generating station, as computed in clause (5) above, exceeds eighty paise per kWh, and the actual saleable energy in a year exceeds $\{ DE \times (100 - AUX) \times (100 - FEHS) / 10000 \}$ MWh, the Energy charge for the energy in excess of the above shall be billed at eighty paise per kWh only:

Provided that in a year following a year in which total energy generated was less than the design energy for reasons beyond the control of the generating company, the energy charge rate shall be reduced to eighty paise per kWh after the energy charge shortfall of the previous year has been made up.

- (6) The concerned Load Despatch Centre shall finalise the schedules for the hydro generating stations, in consultation with the beneficiaries, for optimal utilization of all the energy declared to be available, which shall be scheduled for all beneficiaries in proportion to their respective allocations in the generating station.

60. Norms of operation

The norms of operation shall be as under:

(1) Normative annual plant availability factor (NAPAF)

- (a) Storage and pondage type plants where plant availability is not affected by silt and
- (i) with head variation between Full Reservoir Level (FRL) and Minimum Draw Down Level (MDDL) of upto 8 % 90 %
 - (ii) with head variation between FRL and MDDL of more than 8%

$$= (\text{Head at MDDL} / \text{Rated Head}) \times 0.5 + 0.2$$

- (b) Pondage type plant where plant availability is significantly affected by silt 85%
- (c) Run –of- River type plants: NAPAF to be determined plant-wise, based on 10-day design energy data, moderated by past experience where available / relevant.

Note:

- (i) *A further allowance may be made by the Commission under special circumstances, eg. Abnormal silt problem or other operating conditions, and known plant limitations.*
- (ii) *A further allowance of 5 % may be allowed for difficulties in the North East Region.*
- (iii) *In case of new hydro electric project the developer shall have the option of approaching the Commission in advance for further above norms.*

(2) Auxiliary energy consumption:

- (a) Surface hydro electric power generating stations with rotating exciters mounted on the generator shaft 0.7% of energy generated.
- (b) Surface hydro electric power generating stations with static excitation system.....1.0% of energy generated.
- (c) Underground hydro electric power generating stations with rotating exciters mounted on the generator shaft0.9% of energy generated.
- (d) Underground hydro electric power generating stations with static excitation system1.2% of energy generated.

(3) Transformation losses

From generation voltage to transmission voltage0.5% of energy generated.

61. Connectivity and SLDC Charges

Connectivity charges and SLDC charges as determined by the Commission shall be considered as expenses. SLDC and transmission charges paid for energy sold outside the state shall not be considered as expenses for determining generation tariff.

62. Other income

All Income other than income from sale of energy and net U I charges gained (after introduction of intra-state ABT) shall be grouped as other income. UI penalties shall not be netted off from other income. The UI penalties shall be borne by the generating company.

63. Sale of Infirm Power

Supply of infirm power shall be accounted as Unscheduled Interchange (UI) and paid for from the regional or State UI pool account at the applicable frequency-linked UI rate:

Provided that any revenue earned by the generating company from sale of infirm power after accounting for the fuel expenses shall be applied for reduction in capital cost:

64. Incentive for completion of hydro electric power generating stations ahead of schedule

- (1) In case of commissioning of a hydro electric power generating station or an unit thereof ahead of schedule, the generating station shall become eligible for incentive of an amount equal to the pro-rata amount of reduction in interest during construction achieved by such commissioning, ahead of schedule.

Provided the hydro generating station shall obtain the Commission's approval of project calendar, prior to its implementation for the purpose of claiming the incentive (s).

- (2) The incentive shall be recovered through tariff in twelve equal monthly installments during the first year of operation of the generating station.
- (3) In case of delay in commissioning, interest during construction for the period of delay shall not be allowed to be capitalized for determination of tariff, unless the delay is not attributable to the generating Company.

65. Unscheduled Interchange (UI) charges (Intra State ABT scenario)

- (1) Variation between actual generation or actual drawal and scheduled generation or scheduled drawal shall be accounted for through Unscheduled Interchange (UI) Charges. UI for a generating station shall be equal to its actual generation minus its scheduled generation. UI shall be worked out for each 15 minutes time block. Charges for all UI transactions shall be based on average frequency of the time block and rates as specified by CERC from time to time.
- (2) UI charges for intra-state transactions will arise after intra-state ABT is notified by the Commission and becomes effective.

66. Rebate

- (1) For payment of bills of the generating company through letter of credit on presentation, a rebate of 2% shall be allowed.
- (2) Where payments are made subsequently within a period of one month of presentation of bills by the generating company, a rebate of 1% shall be allowed.

67. Late payment surcharge

In case the payment of any bills for charges payable under these regulations is delayed by a beneficiary beyond a period of two month from the date of billing a late payment surcharge at the rate of 1.25% per month shall be levied by generating company.

Chapter – 5: TRANSMISSION TARIFF

68. Definitions

- a) **“Availability”** in relation to a transmission system for a given period shall mean the time in hours during that period in which the transmission system is capable of transmitting electricity at its rated voltage to the delivery point and shall be expressed in percentage of total hours in the given period. The procedure specified in CERC Tariff Regulations 2009 may be followed. (Refer Annexure-III).
- b) **‘Aggregate Revenue Requirement’** or ‘ARR’ means the costs pertaining to the licensed business which are permitted, in accordance with these Regulations, to be recovered from the tariffs and charges determined by the commission.
- c) **‘Allotted Transmission Capacity’** means and include power transfer in MW between the specified point(s) of injection and point(s) of drawal allowed to a long-term customer on the intra-state transmission system under the normal circumstances and the expression of allotment of capacity shall be construed accordingly.
- d) **“Connectivity”** means arrangement to facilitate interconnection of a licensee point, open access customer point and generating station point with arrangement to control the circuit with suitable switchgear including protection, communication and metering arrangement.
- e) **“Connectivity Charge”** means charge to be recovered for cost of arranging connectivity from concerned agency for availing the connection.
- f) **“Contracted Power”** means the power in MW which the transmission licensee has agreed to carry for the customer as per transmission service agreements or otherwise.
- g) **‘Date of Commercial operation’** in relation to the transmission system, the date declared by the transmission licensee from 0000 hour of which an element of the transmission system is in regular service after successful charging and trial operation:

Provided that the date shall be the first day of a calendar month and transmission charge for the element shall be payable and its availability shall be accounted for, from that date:

Provided further that in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not

attributable to the transmission licensee, its suppliers or contractors, the Commission may approve the date of commercial operation prior to the element coming into regular service.

- h) **‘Long Term Transmission Customers’** means a person availing or intending to avail access to the intra-state transmission system for a period of twenty five years or more.
- i) **“Open Access Customers”** means a consumer permitted by the Commission to receive supply of electricity from a person, other than Distribution Licensee of his area of supply and the expression includes a generating company and a licensee, who has availed of or intends to avail of open access.
- j) **“Rated Voltage”** means the voltage at which the transmission system is designed to operate or such lower voltage at which the line is charged for the time being in consultation with customers.
- k) **“Transmission”** means conveyance of electricity by means of transmission lines.
- l) **“Transmission Services Agreement”** means an agreement entered into between a transmission licensee and the open access customer to avail access to the licensee’s transmission system for the transmission of electricity.
- m) **“Transmission System”** means a line with associated sub-stations or a group of lines interconnected together along with associated sub-stations and the term includes equipment associated with transmission lines and sub-stations.
- n) **‘Transmission Business’** means the business of transmission of electricity by a Transmission Licensee to a beneficiary and permitted open access customers.
- o) **“Transmission Licensee”** means a licensee authorized to establish or operate transmission lines.
- p) **‘Useful Life’** in relation to a unit or transmission system shall be 35 Years from the date of commercial operation thereof.

69. Filing

- (1) The Transmission Licensee shall file the petition for approval of Annual Revenue Requirement (ARR) and Transmission tariff in the manner specified in Chapter-2 of these regulations, unless extension is granted upon application.
- (2) The fillings shall contain the following
 - a) The transmission system usage forecast
 - b) Proposal for transmission tariff, supported by adequate justification

- c) Expected revenue from the licensed business, non-tariff income, income from other business and other matters.
- d) Such other information as the Commission may direct from time to time.

70. Capital Cost

- (1) The actual capital expenditure as on the date of commercial operation in the case of new investment shall be subject to prudence check by the Commission.
- (2) Investments made prior to and up to 31st March immediately preceding the date of the notification of these regulations or date of receipt of a petition of tariff determination whichever is earlier shall be considered on the basis of audited accounts or approvals already granted by the Commission.
- (4) Scrutiny of the capital cost estimates by the Commission shall include the reasonableness, financing plan, interest during construction, use of efficient technology, gestation period and such other matters relevant for determination of tariff.
- (5) Swapping of debt and equity shall be permitted provided it does not affect tariff charges adversely. The benefits accruing from such swapping shall pass on to the consumers.
- (6) In case of any abnormal delay in execution of the project causing cost and time overruns attributable to the failure of the Licensee, the Commission may not approve the full capitalization of interest and overhead expenses but may limit it to a reasonable amount.
- (7) Where transmission service agreement entered into between the transmission licensee and the long term transmission customers provides for ceiling of actual expenditure, the capital expenditure admitted by the Commission shall take into consideration such ceiling for determination of tariff.
- (8) Initial spares shall be capitalized as a percentage of the original project cost, subject to the following ceiling norms

(a) Initial Spares for Transmission System	0.75 %
(b) Transmission substation	2.5 %
(c) Service compensation devices and HVDC station	3.5 %

71. Additional Capitalization

- (1) The following capital expenditure within the original scope of work actually incurred after the date of commercial operation and upto the cut off date may be admitted by the Commission subject to prudence check.

- (d) Un-discharged liabilities,
- (e) Works deferred for execution,
- (f) Procurement of initial capital spares in the original scope of works subject to the ceiling norm of 1.5% of the original project cost.
- (g) Liabilities to meet award of arbitration or for compliance of the order or decree of a court, and
- (h) On account of change in law.

Provided that the details of works included in the original scope of works along with estimates of expenditure, un-discharged liabilities and the works deferred for execution shall be submitted along with the application for determination of tariff to the Commission.

- (2) The capital expenditure incurred on the following nature actually incurred after the cut-off date may be admitted by the Commission, subject to prudence check:
 - (a) Deferred liabilities relating to works/services within the original scope of work,
 - (b) Liabilities to meet award of arbitration or compliance of the order or decree of court,
 - (c) On account of change in law, and
 - (d) Any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement of switchyard equipment due to increase in fault level, emergency restoration system, insulator cleaning infrastructure, replacement or damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of the transmission system.
- (3) Any expenditure on minor items / assets bought after the cut off date like tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machines, heat-convectors, mattresses, carpets, etc. shall not be considered for additional capitalization for determination of tariff.

Note

The list of items is illustrative and not exhaustive.

71(a) Renovation and Modernisation

- (1) A transmission licensee shall make an application before the commission for approval of a proposal for meeting expenditure on renovation and modernization (R&M) for the purpose of extension of life of a unit or the transmission system along with a detailed project report giving complete scope, justification, cost benefit analysis, estimated life extension from a reference date, financing package, phasing

of expenditure, schedule of completion, reference price level, estimated completed cost including foreign exchange component, if any, record of consultation with beneficiaries and any other information considered to be relevant by the transmission licensee.

- (2) Where the transmission licensee makes an application for approval of its proposal for renovation and modernization, the Commission shall accord approval after due consideration of the reasonableness of the cost estimates, financing package, schedule of completion, interest during construction, use of efficient technology, cost benefit analysis and such other factors as may be considered necessary.
- (3) Any expenditure incurred or projected to be incurred and admitted by the Commission after prudent check based on estimate for renovation and modernization and life extension, and after deducting accumulated depreciation already recovered from the original project cost, shall form the basis for determination of tariff.

72. Debt-equity ratio

- (1) For the purpose of determination of tariff, debt-equity ratio in the case of existing, ongoing as well as new projects commencing after the date of notification of these regulations shall be 70:30. Where equity employed is more than 30%, of the capital cost the amount of equity for the purpose of tariff shall be limited to 30% and the balance shall be treated as loan. Where actual equity employed is less than 30%, of the capital cost the actual equity employed shall be considered. Provided that the Commission may, in appropriate case, consider equity higher than 30% for the purpose of determination of tariff, where the transmission licensee is able to establish to the satisfaction of the Commission that deployment of equity more than 30% is in the interest of general public.

The debt and equity amounts arrived at in accordance with clause (1) above shall be used for calculating interest on loan, return on equity, advance against depreciation and foreign exchange rate variation.

Any expenditure incurred or projected to be incurred after notification of these Regulations as may be admitted by the Commission as additional capital expenditure for determination of tariff and renovation and modernization expenditure for life extension shall be served on the manner indicated in sub-regulation (1) above.

73. Annual Revenue Requirement

- (1) The annual expenditure of the Transmission Licensee shall comprise of the following components:
 - (a) Return on Equity as may be allowed
 - (b) Interest on Loan capital
 - (c) Operation and Maintenance expenses
 - (d) Interest on Working Capital
 - (e) Depreciation as may be allowed
 - (f) Taxes on Income
 - (g) Annual License Fee
- (2) The net annual revenue requirement of a transmission licensee shall be worked out by adjusting the following in the annual revenue requirement computed under clause (1) above:
 - (a) Income from surcharge and additional surcharge from open access consumers if any,
 - (b) Transmission and / or wheeling charges recovered from open access customers, if any
 - (c) Authorized portion of Income / Revenue from other business engaged in by the Licensee for optimum utilization of assets, if any.

74. Return on Equity

- (1) Return on equity shall be computed on the equity base determined in accordance with Regulation 72 and shall not exceed 14 %.
 Provided that in case of projects commissioned on or after 1-4-2010, an additional return of 0.5 % shall be allowed if such projects are completed within the time line specified in Appendix – II of CERC (Terms and Conditions of Tariff) Regulations, 2009. (Refer Annexure-2).
 Provided that an additional return of 1.5 % shall be allowed if such projects are completed within the original sanctioned project cost without any cost over run.
 Provided that equity invested in a foreign currency may be allowed a return up to the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing.

- (2) The equity amount appearing in the Balance Sheet as per Transfer scheme notification will be considered for the purpose of considering the return for the first year of operation.
- (3) The premium received while issuing share capital shall be treated as a part of equity provided the same is utilized for meeting capital expenditure.
- (4) Internal resources created out of free reserves and utilized for meeting the capital expenditure shall also be treated as a part of equity.
- (5) Foreign equity will also attract the same rate of return.

75. Interest and finance charges on loan capital

- (1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the prevailing lending rate of bank and financial institution specified therein.
Provided that the outstanding loan capital shall be adjusted to be consistent with the loan amount determined in accordance with regulation 72.
- (2) The interest and finance charges attributable to Capital Work in Progress shall be excluded.
- (3) The transmission licensee shall make every effort to swap loans as long as it results in net benefit to the beneficiaries. The costs associated with such swapping shall be borne by the beneficiaries.
- (4) The changes to the loan terms and conditions shall be reflected from the date of such swapping and benefit shared between the beneficiaries and the licensee in a ratio 50:50.
- (5) In case any moratorium period is availed of by the transmission licensee, depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly.

76. Operation and Maintenance Expenses

- (1) Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-
 - (a) Employee Cost
 - (b) Repairs and Maintenance

- (c) Administration and General Expenses.
- (2) The Licensee shall submit O&M expenses budget indicating the expenditure under each head of account showing actuals of the last financial year, estimates for the current year and projections for the next financial year.
- (3) The norms for O&M expenses on the basis of circuit kilometers of transmission lines, transformation capacity and number of bays in substations shall be submitted for approval of the Commission.
- (4) The Commission shall verify the budget estimates and projections and allow the expenditure depending on its views about the reasonableness of the projections.
- (5) Increase in O& M expenses due to natural calamities or insurgency or other factors not within its control may be approved by the Commission.

77. Interest on Working Capital

- (1) Working capital shall cover,
 - (a) Operation and maintenance expenses for one month;
 - (b) Budget for maintenance spares at the rate of 1% of the historical cost escalated at the rate of 6% per annum from the date of commercial operation and
 - (c) Receivables equivalent to two months transmission charges calculated on target availability level.
- (2) Rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1st April of the financial year for which the licensee files petition for annual Revenue Requirement and tariff proposal. The interest on working capital shall be calculated on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency.

78. Depreciation

For the purpose of tariff determination, depreciation shall be computed in the following manner:

- (a) The asset value for the purpose of depreciation shall be the capital cost of the assets as admitted by the Commission where:
 The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited. Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.

- (b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.
- (c) Depreciation shall be calculated annually as per straight-line at the rates specified in Appendix – II of CERC (Terms and Conditions of Tariff) Regulations 2009 (Refer Annexure-II) of these regulations:
Provided that land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the capital cost of the asset.
- (d) The salvage value of the asset shall be 10 % and the depreciation shall be allowed upto a maximum of 90 % of the capital cost of the asset.
- (e) In case of existing projects the balance depreciable value as on 1-4-2010 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31-3-2010.
- (f) Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.

79. Income Tax

- (1) Income Tax on the Licensed business of the Transmission Licensee shall be treated as expense and shall be recoverable from consumers through tariff. However, tax on any income other than that of its Licensed business shall not be a pass through, and it shall be payable by the Transmission Licensee itself.
- (2) The income tax actually payable or paid shall be included in the ARR. The actual assessment of income tax should take into account benefits of the tax holiday, and the credit carry forward losses applicable as per the provisions of the Income Tax Act 1961 shall be passed on to the consumers.
- (3) Tax on income, if, any liable to be paid shall be limited to tax on return on the equity component of capital employed. However any tax liability on incentives due to improved performance shall not consider.
- (4) Any under recovery or over-recovery of tax on income shall be adjusted every year on the basis of income tax assessment under the Income-Tax Act 1961 as certified by the statutory auditors.

80. Norms of operation

The norms of operation for the transmission licensee, subject to modifications thereof from time to time shall be as under:

(a) Auxiliary Energy Consumption in the Sub-Station.

The cost of auxiliary consumption in the sub-station for the purpose of air-conditioning, lighting, and consumption in other equipment shall be borne by the transmission licensee and considered as part of Operation and Maintenance expenses under the head General and Administration Overhead.

(b) Target Availability of the Transmission System for recovery of full transmission charges.

The Normative Annual Transmission Availability Factor (NATAF) of the Transmission System shall be 98%.

81. Payment of transmission charges by customers

- (1) A transmission licensee shall be allowed to recover his net annual revenue requirement for financial year through transmission charges as one or combination of the following charges:
 - (a) Transmission charges which may consist of a fixed charge, demand charge and an energy charge or a combination of these;
 - (b) Connectivity charge, which shall be levied to meet the cost of connecting the customer to the licensee's transmission system;
 - (c) Parallel operation charge shall be levied for Captive Power Plant if the plant is connected with the grid.
- (2) Transmission charges shall be calculated on a monthly basis.
- (3) Transmission charges shall be recovered from distribution licensees and open access customers.

82. Sharing of Transmission Charges

In case of more than one beneficiaries of the transmission system, the monthly transmission charges leviable on each beneficiary shall be computed as per the following formula:

Transmission charges for transmission system payable for a month by the

$$\text{beneficiary of that transmission system} = \left[\frac{TC}{12} - TRSC \right] \times \frac{CL}{SCL}$$

Where,

TC = Annual Transmission Charges computed in accordance with Regulation 73.

CL = Allotted Transmission Capacity to the beneficiary.

SCL = Sum of the Allotted Transmission Capacities to all the beneficiaries of the State transmission system.

TRSC = Total recovery of transmission charges for the month from short-term transmission customers.

83. Transmission losses and treatment thereof

- (1) The Commission shall fix the norm for transmission losses based on the loss reduction plan provided by the licensee.

The Commission shall make a periodical review of the reduction in transmission losses with reference to the norms fixed by it.

- (2) In the case of failure to achieve the target for loss reduction, the Commission will not allow the excess over the norm as a pass through.
- (3) Only Transmission Losses fixed as provided for in clause (1) above shall be debited to energy account of customers of the transmission system.

84. Computation and payment of transmission charge for Intra-State Transmission system.

- (1) The fixed cost of the transmission system shall be computed on annual basis, in accordance with norms contained in these regulations, aggregated as appropriate, and recovered on monthly basis as transmission charge from the users, who shall share these charges in the manner specified in Regulation 82.
- (2) The transmission charge (inclusive of incentive) payable for a calendar month for a transmission system or part thereof shall be

$$\text{AFC} \times (\text{NDM} / \text{NDY}) \times (\text{TAFM} / \text{NATAF})$$

Where,

AFC	=	Annual fixed cost specified for the year, in Rupees
NATAF	=	Normative annual transmission availability factor, in per cent
NDM	=	Number of days in the month
NDY	=	Number of days in the year
TAFM	=	Transmission system availability factor for the month, in Percent, (Refer Annexure-III)

- (3) The transmission licensee shall raise the bill for the transmission charge (inclusive of incentive) for a month based on its estimate of TAFM.

85. Billing

Monthly bills shall be raised by the transmission licensee upon distribution licensees and open access customers for the transmission charges approved by the Commission and payments shall be made by the transmission customers directed to the transmission licensee.

86. Rebate

- 1) For payment of bills of transmission charges through letter of credit on presentation, a rebate of 2% shall be allowed.
- 2) Where payments are made without letter of credit within a period of one month of presentation of bills by the Transmission licensee, a rebate of 1% shall be allowed.

87. Late payment surcharge

In case the payment of bills of transmission charges by the distribution licensees and open access customers is delayed beyond a period of two months from the date of billing a late payment surcharge at the rate of 1.25% per month shall be levied by the transmission licensee.

Chapter – 6:

TARIFF FOR DISTRIBUTION LICENSEES

88. Definitions

Unless the context otherwise requires,

- (a) **'Area of Supply'** means the area within which a distribution licensee is authorized by virtue of his license, to supply electricity in that area.
- (b) **'Aggregate Revenue Requirement'** means the revenue required to meet the cost pertaining to the licensed business for a financial year, which would be permitted to be recovered through tariff and charges by the Commission.
- (c) **'Base Year'** means the financial year immediately preceding the first year of the control period.
- (d) **'Consumer'** means any person who is supplied with electricity for his own use by a licensee or a deemed licensee engaged in the business of supplying electricity to the public under the Act of or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the work of a licensee.
- (e) **'Distribution Business'** means the business of operating and maintaining a distribution system for supplying electricity in the area of supply of the Distribution licensee.
- (f) **'Distribution System'** means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers.
- (g) **'Distribution licensee'** means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area or supply.
- (h) **'Non-Tariff income'** means income relating to licensed business other than from tariff, for wheeling and retail sale and excludes income from other business and income on account of fuel surcharge adjustment, cross subsidy surcharge and additional surcharge.
- (i) **'Open access'** means the non-discriminatory provision for use of transmission lines or distribution system or associated facilities with such lines or system by any lines or consumer or a person engaged in generation in accordance with the Regulations specified by the Commission.
- (j) **'Other Business'** means any business engaged in by a Distribution Licensee under Section 51 of the act for optimum utilization of the assets of such Distribution Licensee and shall indicate any licensed business of the distribution licensee, other than the licensed business.

- (k) **‘Open access customer’** means a consumer permitted by the Commission to receive supply of electricity from a person other than a distribution licensee of his area of supply and the expression includes a generating company or a licensee who has availed of or intends to avail supply of power through open access.
- (l) **‘Retail Supply Business’** means the business of sale of electricity by a licensee to consumers in accordance with the terms and conditions specified in the distribution and retail supply licensee.
- (m) **‘Wheeling’** means the operation where by the distribution system and associated facilities of a transmission or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under Section 62 of the Act.

89. Application for Determination of Tariff

- (1) The Distribution licensee shall file an application for determination of tariff for retail distribution of electricity along with Annual Revenue Requirement (ARR) in the formats specified by the Commission in accordance with the procedure laid down by the Commission.
- (2) The application for determination of tariff by the Distribution licensee shall be accompanied with following information besides Aggregate Revenue Requirement:-
 - (a) A statement showing current tariff and applicable terms and conditions of tariff.
 - (b) A statement showing Demand / Sales projection for different categories of consumers including slab wise consumption with a note on the method adopted to arrive at the projected growth rate.
 - (c) Energy requirement details with Aggregate Technical and Commercial loss and sources of procurement of power.
 - (d) A statement containing details of revenue realized during the current year category wise and expected revenue at the current tariff for the ensuring year or the period for which tariff is to be determined.
 - (e) A statement showing the subsidy received / receivable from Government at the existing tariff.
 - (f) A statement showing the changes in tariff proposed for each category of consumer and the estimated revenue at the revised tariff.
 - (g) A statement showing cross subsidy at revised tariff and subsidy committed by the Government, if any.
 - (h) Any other information as required by the Commission for determination of tariff for ensuing year.

90. Estimation of Sales

- (1) The accurate projection of category-wise sales is very essential for the assessment of energy input requirement so as to determine the quantum of generation and quantum of energy to be purchased for the correct assessment of revenue requirement for generation and power purchase.
- (2) The licensee may adopt a suitable methodology like CAGR to arrive at the category wise sales for the base year i.e., for the current year.
- (3) The licensee shall submit the restricted demand due to system constraints (in MW), unrestricted demand (in MW) and sale of electricity (in MU) for different categories of consumers in its area of supply for previous year, estimated for the current year and forecast for ensuing year.

Provided where the category-wise unrestricted / restricted demand is not available, these figures may be supplied for the area as a whole. The likely date, by which such data are likely to be available and the steps taken in this regard shall be furnished.

- (4) The forecast for the ensuing year shall be on monthly basis to properly capture the seasonality in demand.
- (5) The Commission shall examine the estimate of sales for reasonableness based on growth in number of consumers and consumption and demand of electricity in previous years and anticipated growth in the next year and any other factor, which the Commission may consider relevant and approve sale of electricity to consumers with such modifications as deemed fit.
- (6) The distribution licensee shall also indicate the particulars of open access consumers, traders and other licensees category wise using its system. The demand and energy wheeled for them shall be shown separately for,
 - (a) supply within the area of supply and
 - (b) supply outside the area of supply.
- (7) Sale of electricity, if any, to electricity traders or other licensees or persons shall be separately indicated. Sale of electricity, if any, outside the licensees area shall be indicated separately in accordance with an agreement executed for this purpose.
- (8) The licensee shall assess and estimate sales to unmetered category of consumers, on the basis of the consumption norms sample study or on any other basis determined, or otherwise found reasonable by the Commission.
- (9) The licensee shall develop a reliable database of each of the consumer categories such as their demand, energy consumption etc, so as to facilitate accurate forecasting of energy sales for ensuing year.

- (10) In case additional electricity is required by any particular consumer category not considered by the commission the licensee shall make an application any time during the year, to the Commission for approval. The application shall indicate the need for such change in consumer mix, the additional supply required and the manner in which the licensee proposes to meet the cost of supply for such change of consumer mix.

91. Distribution Losses

- (1) The Licensee shall furnish information on Distribution losses for Previous year and Current year and the basis on which such losses have been worked out.
- (2) The licensee shall also propose a loss reduction programme for the ensuring year as well as for the next three years duly indicating details of the measures proposed for achieving the same.
- (3) Based on the information furnished and field studies carried out and the loss reduction program proposed by the licensee, the Commission shall fix suitable targets for reduction of Distribution losses for the period specified by the Commission.
- (4) The licensee shall conduct regular energy audit and submit regular energy audit reports for the previous years to substantiate its estimation of energy losses. Incase, the licensee is unable to submit energy audit report for previous years, it shall indicate reasons therefore.
- (5) In the absence of energy audit reports, the Commission may suo-moto determination the loss levels on the basis of information available.

91 (a) AT&C Losses

While filing a Tariff Application, the licensee shall provide complete information of the total AT & C Losses during the previous year and that projected for the year for which the application is being made, including the basis on which such losses have been worked out. (Information to be furnished in Format 2 (A) of Distribution Licensee):

Provided that it shall be obligatory on the licensee whose AT&C losses during the previous year are in excess of 30 percent, to project reduction of such losses by a minimum of 3 percent during the year for which a Tariff Application is made. Any shortfall in the projected level of AT&C losses for such year, in this regard, shall be penalized by an amount equivalent to the cost of the quantum of energy to be lost

due to inability of the licensee to plan and achieve reduction of AT&C losses by a minimum of 3 percent from the previous year's level. Such amount shall be calculated at the average-over-all-unit-cost of sale of power, as approved by the Commission for such year.

Provided further that failure of a licensee to reduce the AT&C losses during the previous year by 3 percent would be penalized on the same basis as stated against clause (a) above.

Provided also that in the case of a licensee whose AT&C losses during the previous year were less than 30 percent, it would be obligatory for such licensee to reduce such AT&C losses by a minimum of 1.5 percent only during the year for which a Tariff Application is made. Failure to achieve this level of reduction would be penalized in the same manner as set out in clause (a) above.

Further, provided that the overall penalty, of any, may be limited by relevant Central Guidelines, as may be notified from time to time.

92. Estimate of Energy Requirement

- (1) Based on the estimated energy sales and the proposed distribution losses the Commission may determine the quantum of electricity required to meet the estimated sales shall and accord approval.
- (2) The Commission may and approve the power purchase requirement with such modifications, as it deems fit, for the ensuing year or for the tariff period.

93. Power Purchase Cost

- (1) The Licensee shall procure power from approved sources. Additional energy required after taking into account the availability of energy from such approved sources, shall be reasonably estimated well in advance and procurement arrangements made for such long and medium term purchases, by following standard contractual procedures. All such purchases shall only be made with the prior approval of the State Commission.
- (2) For purchase of electricity from sources outside the state, the transmission loss level agreed to in the Power Purchase Agreement (PPA) or worked out from energy accounts of RLDC ./ SLDC shall be taken into account for purchase of power from such sources.

- (3) The cost of power purchased from the central generating companies shall be worked out based on the tariff determination by the Central Electricity Regulatory Commission (CERC).
- (4) Where power is purchased by the licensee from State-owned existing generating stations, the cost of power purchase shall be worked out based on the price determined by the State Commission.
- (5) The cost of power purchase from IPPs shall be considered based on existing Power Purchase Agreement if any, till the agreement period is over.
- (6) In case of power purchased from Renewable energy sources the quantum and the cost shall be as per the policy approved by the State Commission / Central Commission.
- (7) In case of short-term power purchase necessitated based on unprecedented development, the licensee may resort to short term procurement.

94. Variation in Power Purchase

Power purchased by the licensee in excess of the approved requirement of power, the Commission shall consider the need for such additional power at the time of truing up of the approved tariff.

95. Transmission and Wheeling Charges

Transmission, wheeling and other charges payable to the transmission licensee or wheeling of power purchased shall be considered as expense and included in the Power Purchase cost. Transmission & wheeling charges paid for energy sold outside the state shall not be considered as expenses.

96. RLDC and SLDC Charges

RLDC and SLDC charges as determined by the appropriate Commission shall be considered as expenses. SLDC charges paid for energy sold outside the state shall not be considered as expenses for determining tariff.

97. Unscheduled Interchange (UI) Charges

- 1. Variation between actual drawal and scheduled drawal shall be accounted for through unscheduled Interchange charges (UI). UI Shall be worked out for each 15 minutes time block. Charges for UI transactions shall be based on average frequency of the time block as specified by CERC from time to time.
- 2. Unscheduled Interchange purchases and sales are to be furnished month wise in the formats provided in this Regulation.

3. Unscheduled Interchange charges for intra-state transactions will arise after intra-state ABT is notified by the Commission and becomes effective.

98. Annual Revenue Requirement

- 1) The annual expenses of the Distribution Licensee shall comprise of the following,:
 - (a) Power Purchase Cost
 - (b) Capital Cost
 - (c) Debt-equity
 - (d) Return on equity
 - (e) Interest on Loan Capital
 - (f) Operation and Maintenance Expenses
 - (g) Interest on working capital
 - (h) Income Tax
 - (i) Depreciation
 - (j) Bad and doubtful debts
 - (k) Depreciation as may be allowed
- 2) The net annual revenue requirement of a distribution licensee shall be by deducting the following from its total expenses:
 - (a) Amount of other income (Non tariff income)
 - (b) Income from surcharge & additional surcharge from open access customers,
 - (c) Wheeling charges recovered from open access consumers,
 - (d) Net income from other business apportioned as per License conditions.
 - (e) Any grant received from the State Government other than the subsidy meant for any consumer or class of consumers.
- 3) Adjustments if any, due to natural calamities or insurgency or other factors not within the control of Licensee may be approved by the Commission for inclusion in Annual Revenue Requirement of the Licensee.

99. Capital Cost

- (1) The capital cost includes, the actual capital expenditure till the date of commercial operation of the licensees distribution system or part thereof within the scope of project be subject to prudence check by the Commission.
- (2) Scrutiny of the cost estimates by the Commission shall be limited to the reasonableness of the capital cost, financial plan, interest during construction, use of efficient technology, gestation period and such other matters relating to the system

prior to the date of commercial operation and as considered by the Commission as approved for determination of tariff.

- (3) In case of any abnormal delay in execution of the project causing cost and time overrun attributable to the failure of the utility the Commission may not approve the full capitalization of interest and overhead expenses.

100. Debt-equity Ratio

- (1) For the purpose of determination of tariff, the debt-equity ratio of 70:30 will be applied for all new investments during the financial year. Where equity employed is more than 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance shall be treated as loan. Where actual equity employed is less than 30%, the actual equity shall be considered.

Provided that the Commission may, in appropriate case, consider equity higher than 30% for the purpose of determination of tariff, where the distribution licensee is able to establish to the satisfaction of the Commission that deployment of equity more than 30% is in the interest of general public.

- (2) The debt and equity amounts in accordance with clause (1) above shall be used for calculating interest on loan, return on equity, advance against depreciation and foreign rate variation.

101. Return on Equity

- (1) Return on equity shall be computed on the equity base determined in accordance with Regulation 100, at a fixed rate of 14 percent, per annum.

Provided that equity invested in a foreign currency may be allowed a return upto the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing. The difference in actual exchange rate and the provisional exchange rate considered while determining the ARR shall be taken into consideration at the time of 'Truing up'.

- (2) The equity amount appearing in the audited Balance Sheet or as per Transfer Scheme Notification will be taken into account for the purpose of calculating the return on equity for the first year of operation, subject to such modifications as may be found necessary upon audit of the accounts if such a Balance Sheet was not audited.
- (3) The premium received while issuing share capital shall be treated as a part of equity provided the same is utilized for meeting capital expenditure.

- (4) Internal resources created out of free reserves and utilized for meeting the capital expenditure shall also be treated as a part of equity.

102. Interest and finance charges on loan capital

- (1) Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the prevailing lending rate of bank and financial institution.

Provided that the outstanding loan capital shall be adjusted to be to be consistent with the loan amount determined in accordance with Regulation 100.

- (2) The interest and finance charges attributable to Capital Work in Progress shall be excluded.
- (3) The distribution licensee shall make every effort to swap loans as long as it results in net benefit to the distribution licensees. The costs associated with such swapping shall be borne by consumers.
- (4) Any change to the terms and conditions of a loan shall be reflected from the date of such swapping and benefit's shared between the beneficiaries and the distribution company in a ratio 50:50.
- (5) In case any moratorium period is availed of, depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly.

103. Operation and Maintenance Expenses

- (1) Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-
- (a) Employee Cost
 - (b) Repairs and Maintenance
 - (c) Administration and General Expenses.
- (2) The distribution Licensee shall submit to the Commission a statement for O&M expenses indicating under each head of account the actuals of last year, estimates for the current year and projections for the next year.
- (3) The Commission shall ensure that the O&M expense are in accordance with the norms fixed by the Commission, and any excess or shortage over the norm shall have to be justified by the licensee.

- (4) In the absence of any norms for O&M expenses, the Commission shall determine operation and maintenance expenses based on prudent check of the estimates submitted by the licensee.
- (5) Increase in O& M expenses due to natural calamities or insurgency or other factors not within the control of the distribution licensee may be considered by the Commission for determination of tariff.

104. Interest on Working Capital

- (1) Working capital for supply of electricity shall consist of:
 - (a) Operation and maintenance expenses for one month,
 - (b) Budget for maintenance spares at the rate of 1% of the historical cost escalated at the rate of 6% per annum from the date of commercial operation.
 - (c) Receivables equivalent two months on fixed and variable charges for sale of electricity.
- (2) Rate of interest on working capital shall be equal to the short-term Prime Lending Rate of State Bank of India as on 1st April of the relevant financial year for which the licensee files petition for Annual Revenue Requirement and tariff proposal. The interest on working capital shall be calculated on normative basis notwithstanding that the licensee has not taken working capital loan from any outside agency.

105. Income Tax

- (1) Income Tax on the licensed business of the Distribution Licensee shall be treated as expense and shall be recoverable from consumers through tariff. However, tax on any income other than that of its Licensed business shall not be a pass through, and it shall be payable by the Distribution Licensee.
- (2) The income tax actually payable or paid shall be included in the ARR. The actual assessment of income tax should take into account benefits of the tax holiday, and the credit carry forward losses applicable as per the provisions of the Income Tax Act 1961 shall be passed on to the consumers.
- (3) Tax on income, if, any liable to be paid shall be limited to tax on return on the equity component of capital employed. However any tax liability on incentives due to improved performance shall not consider.
- (4) Any under recovery or over-recovery of tax on income shall be adjusted every year on the basis of income tax assessment under the Income-Tax Act 1961 as certified by the statutory auditors.

106. Depreciation

For the purpose of tariff determination, depreciation shall be computed in the following manner:

- (a) The asset value for the purpose of depreciation shall be equal to the cost of the assets as approved by the Commission where:
The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited. Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.
- (b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.
- (c) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed upto a maximum of 90% of the capital cost of the asset.
- (d) Depreciation shall be calculated annually as per straight-line method over the useful life of the asset as per the rates specified by the CERC. The Rate of Depreciation shall be the same as the Rate of Depreciation specified by CERC from time to time. Operative rates as on date are shown in Annexure-II of these Regulations.
- (e) Land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the cost of the asset.
- (f) On repayment of entire loan, the remaining depreciable value shall be spread over the balance useful life of the asset.
- (g) Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.

107. Bad and Doubtful Debts

The Commission may after the distribution licensee gets the receivables audited, allow a provision for bad debts not exceeding an amount equal to 1 percent receivables in the revenue requirement of the licensee. (Information to be furnished in Format D-6).

108. Wheeling Charges for open access consumers,

(1) Wheeling charges of a distribution licensee for its distribution system shall be computed by deducting the following amounts from its annual revenue requirement worked out under regulation 98.

- (a) Cost of power purchase
- (b) Interest payable on security deposits of consumers.

(2) Wheeling charges so worked out shall be apportioned supply voltage wise.

(3) The normative distribution system loss at the voltage at which open access transaction is under taken shall be borne by the consumer in kind.

(3) Wheeling charges shall be single part tariff chargeable in Rs. per kWh; however the Commission may approve two-part tariff at a later stage.

The two-part charges may consist of the following or any one or combination there of:

- (a) Fixed charge in Rs. per month per kW of contracted power.
- (b) A charge in Rs. per KWh of energy wheeled separately for:
 - (i) wire business
 - (ii) Installation, operation and maintenance of meters, metering system and any other equipment at consumer's premises.
 - (iii) billing & collection of payment
 - (iv) consumer services

(c) Connectivity fee

(d) Reactive energy charge / incentive:

Generator and consumers shall be required to maintain power factor (or reactive energy generation/drawal) of generation / load as specified. Power factor surcharge/incentive or reactive energy charge shall be applicable separately on generator and consumer as per licensee's tariff, as approved by the Commission.

109. Segregation of Wheeling and Retail supply Business

(1) The Distribution Licensee shall segregate the accounts of the Licensed business into wheeling Business and Retail supply Business. The ARR for Wheeling Business shall be used to determine wheeling charges and the ARR for Retail supply Business to determine Retail Supply Tariff,

(2) For such period until accounts are segregated, the licensee shall prepare an allocation statement to apportion costs and revenues to respective business. The Allocation statement, approved by the Board of Directors of the Licensee, shall be

accompanied with an explanation of the methodology, which should be consistent over the Control Period.

110. Surcharge

- 1) The Commission will determine annually the surcharge payable by the open access consumers to meet the current level of cross subsidy level according to proviso 1 section 42 (2) of the Act. Provided that:
 - (a) The voltage based cost of supply to the category of consumers for the purpose of tariff to which the open access consumer belongs and the total realization from that category of consumers shall be the basis of calculating the extent of cross subsidy provided by such category of consumers.
 - (b) The amount of surcharge shall be so calculated as to meet the current level of cross subsidy from that category of consumers and shall be paid to the distribution licensee of the area of supply where the consumer is located.
 - (c) The surcharge shall be reduced in the same manner as the Commission may lay down for reduction and elimination of cross subsidies in its regulations relating to terms and conditions of tariff of distribution licensees.
- 2) The open access consumers availing exclusively intra-state transmission system shall pay the same amount of surcharge as determined under these regulations.
- 3) The cross subsidy surcharge is not payable if open access is provided to a person who has established a captive generating plant for carrying the generated electricity to the destination of his own use.

111. Additional Surcharge

- 1) The Commission will determine an additional surcharge that is payable by the open access consumer to meet the fixed cost of such distribution licensee arising out of his obligation to supply according to section 42 (4) of the Act.
- 2) The distribution licensee whose consumer intends to avail the facility of open access shall submit to the Commission within fifteen days of receipt of application an account of the fixed cost associated with the generation capacity entitlement in MW which the licensee is incurring towards his obligation to supply, the amount of income that may be earned by selling that entitlement to other persons, and the time required to relinquish the generation capacity MW entitlement amount associated with open access consumer.
- 3) The Commission shall scrutinize the statement of account submitted by the licensee and after giving the open access consumer an opportunity for filing objections, if any, determine the amount of additional surcharge payable by the

consumer to the licensee. The additional surcharge shall not be more than the capacity charge [applicable in the bulk supply tariff for generation to the distribution licensee.

- 4) The additional surcharge shall be imposed for a maximum period as may be specified by the Commission may determine and the amount of the additional surcharge will be adjusted annually by the Commission.
- 5) At the end of the financial year, the licensee shall be required to demonstrate that the net fixed costs incurred for the MW generation capacity entitlement and the additional surcharges paid by the open access consumer will be adjusted either by a rebate to or an additional payment by the open access consumer to reflect the actual costs incurred. Net fixed costs shall be determined by deducting from the fixed costs any income earned by the licensee with the generation capacity entitlement.

112. Forecast of Revenues

- 1) The revenues of the distribution licensee from the business of the distribution of electricity shall comprise of the following components.
 - a) Revenue from sale of power i.e., tariff income
 - b) Non-tariff income
 - c) Income from surcharge and additional surcharge from open access customer
 - d) Wheeling charges recovered from open access consumers.
 - e) Any grant received from the State Government, other than the subsidy meant for any consumer or class of consumers.
 - f) Net income from other business apportioned as per licensee conditions.
- 2) The non-tariff income shall comprise of:
 - a) Delayed Payment Surcharge
 - b) Meter Rent
 - c) Customer Charges
 - d) Income from investments
 - e) Miscellaneous receipts from consumers
 - f) Trading income
 - g) Prior period income
 - h) Interest on staff loans and advances
 - i) Recovery of theft and pilferage of energy
 - j) Any other income

113. Revenue Gap

- 1) For the tariff year, the difference between the net Annual Revenue Requirement and the expected Revenue at the prevailing tariff shall be the 'Revenue Gap'.
- 2) The revenue gap shall be bridged by measures such as improvements in internal efficiency, utilization of reserves, tariff changes etc. as may be approved by the Commission.

114. Tariff Design

- 1) Distribution tariff will be two part tariff comprising fixed charge and energy charge.

'Provided that, in the event of the licensee being unable, for any reason, to supply a consumer with High Tension/Extra High Tension electricity supply as per contract-demand specified in the contract agreement executed by them with such a consumer, the fixed charges per KVA of contract load shall be regulated as follows-

C = Percentage of average monthly supply to contract demand.

$$= \frac{b \times t \times 100}{a \times T} \text{ per cent;}$$

Where,

- (1). a = Contract demand in KVA,
- (2). b = Average load supplied to the consumer during the month in KVA,
- (3). T = Contracted duration of daily supply in hours.
- (4). t = Average duration of daily supply during the month in hours.

Provided further, that if C is equal to, or more than 75 per cent of the contract-demand, such consumer shall be liable to pay fixed charges at tariff rates as stipulated in the distribution tariff order in force, in addition to stipulated energy charges for energy actually consumed at full rates; but, if C is less than 75 per cent of the contract-demand, such consumer shall be liable to pay fixed charges at C per cent of the fixed charge rate as stipulated in the distribution tariff order in force, in addition to stipulated energy charges for energy actually consumed at full rates. All such resultant billing adjustments shall be made in the billing for the subsequent month, that is the month following the month during which the licensee was unable, for any reason, to supply such consumer with electricity as per contract-demand specified in the contract agreement executed by them with such consumer.

- 2) Tariff shall be applicable to consumer categories and as per slabs as will be determined by the commission.

- 3) The Commission may rationalize the tariff structure so that it is beneficial to consumers and the licensee.
- 4) A differential tariff for peak and off peak hours may be designed to promote demand side management.

115. Provision of Subsidy

If the State Government decides to grant any subsidy to any consumer or class of consumers in the tariff determined by the Commission under Section 62 of the Act, the State Government shall, notwithstanding any direction which may be given under Section 108 of the Act, pay in advance and in such manner as may be specified by the Commission, to the party affected by grant of subsidy, such amount as to fully compensate the loss in revenue due to grant of such subsidy..

Provided that no such direction of the State Government shall be operative, if the subsidy payment is not made in accordance with the provisions contained in this regulation and the tariff fixed by the Commission shall be applicable from the date of issue of orders by the Commission in this regard.

Chapter – 7

MISCELLANEOUS

116. Power to remove difficulties

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, do or undertake or direct the licensees to do or undertake things, which in the opinion of the Commission is necessary or expedient for the purpose of removing the difficulties.

117. Power to Amend

The Commission may, at any time add, vary, alter, modify or amend any provisions of these regulations.

11787. Power of relaxation

The Commission may in public interest and for reason recorded in writing, relax any of the provision of these regulations

119. Interpretation

If a question arises relating to the interpretation of the provisions of these regulations, the decision of the Commission shall be final.

120. Review of Regulations

The Commission at the end of three years from the date of publishing these regulations or even earlier, if considered just, proper and desirable by it considering the circumstances then prevailing shall undertake a comprehensive review of these regulations with the objective of improvement in the principles, procedures and methodologies.

121. Savings

- (1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice to meet or to prevent abuses of the process of the Commission.
- (2) Nothing in these regulations shall bar the Commission from adopting, in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of a matter or

class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

- (3) Nothing in these regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Act for which no regulations or codes have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit in the public interest.

122. Sharing of CDM Benefits. The proceeds of carbon credit from approved CDM project shall be shared in the following manner, namely –

- (a). 100% of the gross proceeds on account of CDM to be retained by the project developer in the first year after the date of commercial operation of the generating station or the transmission system, as the case may be;
- (b). in the second year, the share of the beneficiaries shall be 10% which shall be progressively increased by 10% every year till it reaches 50%, where after the proceeds shall be shared in equal proportion, by the generating company or the transmission licensee, as the case may be, and the beneficiaries.

123. Repeal.

- (1) The Meghalaya State Electricity Regulatory Commission (Determination of Tariff) Regulation, 2006 (6 of 2006) and the Meghalaya State Electricity Regulatory Commission (Furnishing of Details for Determination of Tariff) Regulation 2009 (4 of 2009) are hereby repealed.
- (2) Notwithstanding the repeal anything done or action taken or purported to have been done or taken including any order or direction issued under the repealed regulations shall in so far as it is not inconsistent with the provisions of these regulations, be deemed to have been taken or done under the corresponding provisions of these regulations.

J. B. POON,
Secretary
Meghalaya State Electricity Regulatory Commission,
Shillong.

Annexure-I**Timeline for completion of Projects**

1. The completion time schedule shall be reckoned from the date of investment approval by the Board (of the generating company or the transmission licensee), or the CCEA clearance as the case may be, up to the date of commercial operation of the units or block or element of transmission project as applicable.
2. The time schedule has been indicated in months in the following paragraphs and tables:

A Thermal Power Projects**Coal/Lignite Power Plant****Unit size 200/210/250/300/330 MW and 125 MW CFBC technology**

- (a) 33 months for [first unit of] green field projects. Subsequent units at an interval of 4 months each.
- (b) 31 months for [first unit of] extension projects. Subsequent units at an interval of 4 months each.

Unit size 250 MW CFBC technology

- (a) 36 months for [first unit of] green field projects. Subsequent units at an interval of 4 months each.
- (b) 34 months for [first unit of] extension projects. Subsequent units at an interval of 4 months each.

Unit size 500/600 MW

- (a) 44 months for [first unit of] green field projects. Subsequent units at an interval of 6 months each.
- (b) 42 months for [first unit of] extension projects. Subsequent units at an interval of 6 months each.

Unit size 660/800 MW

- (a) 52 months for [first unit of] green field projects. Subsequent units at an interval of 6 months each.
- (b) 50 months for [first unit of] extension projects. Subsequent units at an interval of 6 months each.

Combined Cycle Power PlantGas Turbine size upto 100 MW (ISO rating)

- (a) 26 months for first block of green field projects. Subsequent blocks at an interval of 2 months each.
- (b) 24 months for first block of extension projects. Subsequent units at an interval of 2 months each.

Gas Turbine size above 100 MW (ISO rating)

- (a) 30 months for first block of green field projects. Subsequent blocks at an interval of 4 months each.
- (b) 28 months for first block of extension projects. Subsequent units at an interval of 4 months each.

B. Hydro Electric Projects

The qualifying time schedule for hydro electric projects shall be as stated in the original concurrence issued by the Central Electricity Authority under section 8 of the Act.

C. Transmission Schemes

Qualifying time schedules in months

S. No	Transmission Work	Plain Area (months)	Hilly Terrain (months)	Snowbound area/@ very difficult Terrain (months)
A	765 kV S/C Transmission line	30	36	40
B	+/- 500 kV HVDC Transmission line	24	30	34
C	400 kV D/C Quad Transmission line	32	38	42
D	400 kV D/C Triple Transmission line	30	36	40
E	400 kV D/C Twin Transmission line	28	34	38
F	400 kV S/C Twin Transmission line	24	30	34
G	220 kV D/C Twin Transmission line	28	34	38
H	220 kV D/C Transmission line	24	30	34
I	220 kV S/C Transmission line	20	26	30
J	New 220 kV AC Sub-station	18	21	24
K	New 400 kV AC sub-station	24	27	30
L	New 765 kV AC sub-station	30	34	\$
M	HVDC bi-pole terminal	36	38	-
N	HVDC back-to-back	26	28	-
@ e.g. Leh, Laddakh				
\$ No 765 kV sub-statio has been planned in difficult terrain				

Notes:

- (i) In case a scheme having combination of the above mentioned types of projects, the qualifying time schedule of the activity having maximum time period shall be considered for the scheme as a whole.
- (ii) In case a transmission line falls in plain as well as in hilly terrain/snow bound area/very difficult terrain, the composite qualifying time schedule shall be calculated giving proportional weightage to the line length falling in each area.

Annexure-II**Depreciation Schedule**

S. No	Asset Particulars	Depreciation Rate (Salvage Value= 10%)
		SLM
A	Land under full ownership	0.00%
B	Land under lease	
(a)	For investment in the land	3.34 %
(b)	For cost of cleaning the site	3.34 %
(c)	Land for reservoir in case of hydro generating station	3.34 %
C	Assets purchased new	
(a)	PI & Machinery in generating stations	
(i)	Hydro Electric	5.28 %
(ii)	Steam electric NHRB & waste heat recovery boilers	5.28 %
(iii)	Diesel electric and gas plant	5.28 %
(b)	Cooling towers & circulating water systems	5.28 %
(c)	Hydraulic works forming part of the Hydro-	
(i)	Dams, Spillways, Weirs, Canals, Reinforced concrete flumes and siphons	5.28 %
(ii)	Reinforced concreted pipelines and surge tanks, steel pipelines, sluice gates, steel surge tanks, hydraulic control valves and hydraulic works	5.28 %
(d)	Building & Civil Engineering works of a	
(i)	Offices and showrooms	3.34 %
(ii)	Containing thermo-electric generating plant	3.34 %
(iii)	Containing hydro-electric generating plant	3.34 %
(iv)	Temporary erections such as wooden structures	100.00 %
(v)	Roads other than Kutcha roads	3.34 %
(vi)	Others	3.34 %
(e)	Transformers, Kiosk, sub-station equipment & other fixed apparatus (including plant	
(i)	Transformer including foundations having rating of 100 kVA and over	5.28 %
(ii)	Others	5.28 %
(f)	Switchgear including cable connections	5.28 %
(g)	Lightning arrestor	
(i)	Station type	5.28 %
(ii)	Pole type	5.28 %
(iii)	Synchronous Condenser	5.28 %

(h)	Batteries	5.28 %
(i)	Underground cable including joint boxes and disconnected boxes	5.28 %
(ii)	Cable duct system	5.28 %
(i)	Overhead lines including cable support	
(i)	Lines on fabricated steel operating at terminal voltages higher than 66 kV	5.28 %
(ii)	Lines on steel supports operating at terminal voltages higher than 13.2 kV but not exceeding 66 kV	5.28 %
(iii)	Lines on steel on reinforced concrete support	5.28 %
(iv)	Lines on treated wood support	5.28 %
(j)	Meters	5.28 %
(k)	Self propelled vehicles	9.50 %
(l)	Air Conditioning Plants	
(i)	Static	5.28 %
(ii)	Portable	9.50 %
m(i)	Office furniture and furnishing	6.33 %
(ii)	Office equipment	6.33 %
(iii)	Internal wiring including fittings and apparatus	6.33 %
(iv)	Street Light fittings	5.28 %
(n)	Apparatus let on hire	
(i)	Other than motors	9.50 %
(ii)	Motors	6.33 %
(o)	Communication equipment	
(i)	Radio and high frequency carrier system	6.33 %
(ii)	Telephone lines and telephones	6.33 %
(p)	I.T equipments	15.00 %
(q)	Any other assets not covered above	5.28 %

Annexure – III

**Procedure for Calculation of Transmission System
Availability Factor for a Month**

1. Transmission system availability factor for a calendar month (TAFM) shall be calculated by the respective transmission licensee, got verified by the concerned RLDC and certified by the Member-Secretary, Regional Power Committee of the region concerned, separately for each AC and HVDC transmission system and grouped according to sharing of transmission charges.
2. TAFM, in percent, shall be equal to $(100 - 100 \times \text{NAFM})$, where NAFM is the non-availability factor in per unit for the month, for the transmission system / sub-system.
3. NAFM for A.C. systems / sub-systems shall be calculated as follows :

$$\text{NAFM} = \left[\sum_{l=1}^L (\text{OH}_l \times \text{Ckt km}_l \times \text{NSC}_l) + \sum_{t=1}^T (\text{OH}_t \times \text{MVA}_t \times 2.5) + \sum_{r=1}^R (\text{OH}_r \times \text{MVAR}_r \times 4) \right] \div \text{THM} \times \left[\sum_{l=1}^L (\text{Ckt km}_l \times \text{NSC}_l) + \sum_{t=1}^T (\text{MVA}_t \times 2.5) + \sum_{r=1}^R (\text{MVAR}_r \times 4) \right]$$

Where

l identifies a transmission line circuit

t identifies a transformer / ICT

r identifies a bus reactor, switchable line reactor or SVC

L = total number of line circuits

T = total number of transformers and ICTs

R = total number of bus reactors, switchable line reactors and SVCs

OH = Outage hours or hours of non-availability in the month, excluding the duration of outages not attributable to the transmission licensee, if any, as per clause (5).

Cktkm = Length of a transmission line circuit in km

NSC = Number of sub-conductors per phase

MVA = MVA rating of a transformer / ICT

MVAR = MVAR rating of a bus reactor, switchable line reactor or an SVC (in which case it would be the sum of inductive and capacitive capabilities).

THM = Total hours in the month.

4. NAFM for each HVDC system shall be calculated separately, as follows :

$$\text{NAFM} = [\Sigma (\text{TCR} \times \text{hours})] \div [\text{THM} \times \text{RC}]$$

Where

TCR = Transmission capability reduction of the system in MW

RC = Rated capacity of the system in MW.

For the above purpose, the HVDC terminals and directly associated EHV / HVDC lines of an HVDC system shall be taken as one integrated system.

5. The transmission elements under outage due to following reasons shall be deemed to be available:
- i) Shut down availed for maintenance or construction of elements of another transmission scheme. If the other transmission scheme belongs to the transmission licensee, the Member-Secretary, RPC may restrict the deemed availability period to that considered reasonable by him for the work involved.
 - ii) Switching off of a transmission line to restrict over voltage and manual tripping of switched reactors as per the directions of RLDC.
6. Outage time of transmission elements for the following contingencies shall be excluded from the total time of the element under period of consideration.
- i) Outage of elements due to acts of God and force majeure events beyond the control of the transmission licensee. However, onus of satisfying the Member Secretary, RPC that element outage was due to aforesaid events and not due to design failure shall rest with the transmission licensee. A reasonable restoration time for the element shall be considered by Member Secretary, RPC and any additional time taken by the transmission licensee for restoration of the element beyond the reasonable time shall be treated as outage time attributable to the transmission licensee. Member Secretary, RPC may consult the transmission licensee or any expert for estimation of reasonable restoration time. Circuits restored through ERS (Emergency Restoration System) shall be considered as available.
 - ii) Outage caused by grid incident/disturbance not attributable to the transmission licensee, e.g. faults in substation or bays owned by other agency causing outage of the transmission licensee's elements, and tripping of lines, ICTs, HVDC, etc. due to grid disturbance. However, if the element is not restored on receipt of direction from RLDC while normalizing the system following grid incident/disturbance within reasonable time, the element will be considered not available for the period of outage after issuance of RLDC's direction for restoration.



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PART II-A

GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th February, 2011.

No.MSERC/Transmi-Lic/05//2011/01.-The following draft of the Meghalaya State Electricity Regulatory Commission (Grant of Licenses for Transmission of Electricity) Regulations, 2011 which the Commission proposes to make in exercise of the powers conferred under sub-sections (1) and (2) of section 181 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) of section 181 and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(GRANT OF LICENSES FOR TRANSMISSION OF ELECTRICITY)
REGULATIONS, 2011.

(_____of 2011)

Chapter – 1

Preliminary

1. Short title and commencement

- (1) These regulations shall be called the Meghalaya State Electricity Regulatory Commission (Grants of Licenses for Transmission of Electricity) Regulations, 2011.
- (2) They shall extend to the whole state of Meghalaya.
- (3) They shall come into force on the day of their notification in Gazette of Meghalaya.

2. Definitions

In these regulations, unless the context otherwise requires,

- (1) “**Act**” means the Electricity Act, 2003 (36 of 2003).
- (2) “**Accounts**” means the accounts of the Transmission Licensee prepared in accordance of the Companies Act, 1956 and / or in accordance with the guidelines / directions issued by the Commission from time to time.
- (3) “**Applicant**” means any person who makes an application for license to the Commission for intra-state transmission of electricity under section 15 of the Act.
- (4) “**Area of activity**” means the area specified in the Transmission license by the Commission in which the licensee is authorized to establish, operate and maintain transmission lines and transmission system.
- (5) “**Auditors**” means the auditors appointed by the Transmission licensee and if the transmission licensee is a company, the auditors appointed in accordance with the provisions of the Companies Act, 1956 (1 of 1956), as amended from time to time.
- (6) “**Business Plan**” means a plan of action for a specified period in relation to the licensed business, as directed by the Commission.
- (7) “**Commission**” means the Meghalaya State Electricity Regulatory Commission (MSERC), constituted by the Government of Meghalaya under section 82 of the Act.
- (8) “**Deemed licensee**” means a person as defined under first, third and fifth provisos under section 14 of the Act.
- (9) “**Distribution Licensee**” means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply.

- (10) “**Grid Code**” means a code specified by the Commission under clause (h) of sub-section (1) of section 86 of the Act.
- (11) “**License**” means a license granted under section 14 of the Act by the Commission and the ‘licensee’ shall be construed accordingly and includes a deemed licensee under the Act.
- (12) “**Licensed business**” means the business of transmission of electricity in the area specified in the license.
- (13) “**Open Access**” means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation as per the regulations specified by the Commission.
- (14) “**Other Business**” means any other business of the licensee, other than the licensed business of intra-state transmission, which the licensee undertakes for optimum utilisation of its assets.
- (15) “**Trading Licence**” means a license authorizing a person to purchase electricity for resale thereof and the expression ‘trade’ shall be construed accordingly.
- (16) “**Transmission license**” means a license authorizing a person to establish and operate transmission lines and the ‘transmission licensee’ shall be construed accordingly.

The words and expressions used and not defined in these regulations but defined in the Act or defined in any law applicable to the electricity industry shall have the meanings assigned to them in the Act.

3. Interpretation

In these regulations, the following shall be interpreted as:

- (a) words in singular includes plural and vice versa;
- (b) the terms ‘includes’ and ‘including’ shall be considered as followed by ‘without limitation’ or ‘but not limited to’ whether they are actually followed by similar expressions or not in these regulations;
- (c) the headings inserted are for convenience;
- (d) reference to various Acts, Rules, Regulations and Guidelines shall be construed as amended from time to time.

Chapter – 2

Grant of License

4. Application for grant of license

- (1) Any person who intends to do business in transmission of electricity in the State of Meghalaya shall make an application to the Commission under section 15 of the Act in the format in Appendix – I and in the manner specified from time to time by the Commission.
- (2) The applicant shall also pay the fee prescribed by the Commission.
- (3) The applicant shall also send a copy of the application to the State Transmission Utility to enable it to check the contents of the application and submit its recommendations to the Commission to consider them before taking a decision to grant a license to the applicant.
- (4) The Commission may, if it considers necessary, invite applications through advertisement from public who satisfy the eligibility requirements required to grant a transmission license, as may be specified from time to time.
- (5) The application for grant of a license shall be signed by the applicant himself or by an authorized person and sent to the Commission in six sets. An affidavit authorizing the nominated person to sign the application, on behalf of the applicant, shall also be enclosed to the application.

5. Requirements to be fulfilled by an applicant

The applicant applying for grant of a transmission license to the Commission shall fulfill the following requirements.

- (1) **Technical capability:** The applicant shall have experience / capability in development, design, construction, operation and maintenance of transmission lines or substations or both at the voltage level at which the assets in respect of which an application for grant of license has been made.

Note: The experience in design, construction or maintenance, as the case may be, of the transmission system operating at 66kV level shall be construed as relevant experience at voltage levels of 66kV and above.

- (2) **Financial capability:** Net-worth of the applicant shall not be less than the estimated annual transmission charges of the assets in respect of which an application for grant of licence has been made.

Note: The applicant shall be required to submit necessary evidence of his claim of meeting the qualifying requirements.

6. Additional information

The Commission may, on scrutiny of the application, direct the applicant to furnish such information / particulars / documents, as it may require, to examine and take a decision on the application.

7. Publication of application

Every applicant shall within 7 days of submission of the application to the Commission shall publish a notice of such application in two daily largely circulated newspapers, one in English and another in local language, in the manner specified by the Commission.

8. Availability of application and related documents

- (1) The applicant shall make available to the public copies of his application, together with its enclosures, in his office as well as all his local offices in the proposed area of the transmission license to enable the public to offer their suggestions / comments to the Commission to consider them before taking a decision on the application.
- (2) The applicant shall supply a copy of the application to any person who requires it on payment of cost, not exceeding the cost of photo copying.

9. Objections

- (1) Any person who desires to offer comments / suggestions shall submit his response within 30 days from the date of publication of the notice to the Commission.
- (2) The Commission may, at its discretion, refer all the suggestions / comments received to applicant for his views, who shall submit them to the Commission within 15 days from the date of receipt of the suggestions / comments.

10. Hearing and local inquiry

If any person objects to the grant of license to the applicant, the Commission may, if it considers appropriate order an inquiry on the applicant to ascertain the correctness of the objections raised by the person. On receipt of the report, the Commission may take a decision to grant a license based on the merits of the case or not.

11. Grant of transmission licensee

- (1) Before granting a license under section 14 of the Act, the Commission shall publish a notice in two daily newspapers, one in English and another in Hindi or local language of its intention to grant a license to the applicant, indicating the name and addresses of the person to whom it proposed to grant license.
- (2) The Commission shall specify in the license the general or special terms and conditions governing the license, which the applicant has to fulfill. A draft license and the conditions to be covered is in Appendix-II.
- (3) In case, the Commission decides to reject an application for grant of license, an opportunity shall be given to the applicant to present his case, either in writing or oral, before finally rejecting his case duly recording the reasons thereto.
- (4) The Commission shall also specify the license fee to be paid by the applicant, which will be a pass through in the Aggregate Revenue Requirement of the licensee.
- (5) The Commission shall, immediately after issue of orders granting the license, communicate a copy of the license to the Government of Meghalaya and Central and State Transmission Utilities, Central Electricity Authority, State Load Despatch Centre and all other concerned authorities.

12. Recommendations of the State Transmission Utility

- (1) Every applicant shall forward a copy of his application to the State Transmission Utility (STU).
- (2) The State Transmission Utility shall, within 30 days of the receipt of the copy of the application shall submit its recommendation to the Commission on the following.
 - (a) Whether the assets in respect of which an application for grant of licence has been made from part of
 - (i) the intra-state transmission system
 - (ii) the transmission plan
 - (b) justifiability of the proposed completion schedule envisaged for the assets for which application was made.
 - (c) Technical viability of the assets for which application was made
 - (d) Justifiability or otherwise of the estimated completion cost indicated by the applicant
 - (e) Any other information considered relevant

Note: (1) The recommendations and the report of the State Transmission Utility shall be communicated to the Commission for its consideration before issue of the license to the applicant.

(2) The recommendations and the report of the STU are only recommendatory and not binding on the Commission.

13. Date of commencement and duration of the license

- (1) The Commission shall indicate the date of commencement of the license in the license itself.
- (2) The license shall be in force for a period of twenty five years from the date of commencement.

14. Deposit of printed copies of the license

Every transmission license shall supply free of cost one copy of the license and relevant maps to every local authority within the area of activity specified in the license and shall also make arrangements for sale of printed copies of the license to all persons applying for the same at a cost not exceeding the cost of photo copying.

15. Payment of license fee

- (1) The licensee shall pay the initial / annual license fee, as may be specified by the Commission within the time limit fixed.
- (2) If the licensee fails to pay the fees due under sub-regulation (i) above, the licensee shall be liable to pay interest on the outstanding amount, as specified by the Commission, for the period beginning on the day on which it becomes due and ending on the day on which the payment is made. The licensee shall also be subject to the proceedings for recovery of the fees.

16. Compliance of certain conditions by the licensee:

- (a) The licensee shall comply with the following:
 - (i) requirements of law in force, the Acts, the Grid Code, transmission operating standards, transmission planning, safety standards, rules, regulations and orders / directions issued by the Commission from time to time;
 - (ii) the orders / directions issued by the National Load Despatch Centre, Regional Load Despatch Centre, State Load Despatch Centre and other statutory authorities;
 - (iii) Coordinate with the Regional Electricity Boards and Power Committees, Central and State Transmission Utilities, Generating Companies etc in respect of all activities relating to the licensed business;

- (iv) Shall not omit or neglect to undertake any transmission activity under the license for four consecutive quarters, which will entail to revoking the license under section 19 of the Act;
- (v) The licensee shall not (a) enter into an agreement leading to abuse of his dominant position or (b) enter into any combination which is likely to cause adverse effect on competition in the electricity industry; and
- (vi) The licensee shall discharge all the duties of a transmission licensee specified in section 40 of the Act.
- (b) The licensee shall not:
 - (i) acquire / purchase or take over the utility of any other licensee
 - (ii) have any ownership or beneficial interest in a distribution / trading licence or a generating company
 - (iii) merge its utility with any other license
 - (iv) assign or transfer its license or part thereof to any person through sale, lease, exchange or otherwise
 - (v) make use of assets of the system for a purpose other than transmission of electricity except with the prior approval of the Commission.

(c) Other business:

The transmission licensee may, with prior approval of the Commission, engage in any other business for optimum utilisation of its assets. It shall, however, ensure that:

- (i) the licensed business is not adversely affected in any manner by the other business
- (ii) the assets of the licensed business are not transferred or encumbered to support or subsidize other business
- (iii) a portion of the profits earned by other business shall be utilized in the licensed business towards reducing the transmission and wheeling charges to its consumers
- (iv) separate accounting records are kept for such other business to identify the revenues, costs, assets, liabilities, reserves etc of other business from those of the licensed business.

17. **Furnishing of information**

- (1) The transmission licensee shall furnish to the Commission, on due date, such information, documents and details relating to licensed business or other business as the Commission may require from time to time for its own purpose or for purposes of GOI, State Government, the Central Commission, CEA, Central

and State Transmission Utilities and State Load Despatch Centre, in the form specified.

- (2) Any significant change in its status, ownership, control or management or business which may affect the transmission licensee's ability to meet its obligations.
- (3) Any material breach of the provisions of the Acts, rules and regulations, directives and orders issued by the Commission, the Grid Code or the terms of the agreements / arrangements entered into by the transmission licensee with other licensees or generating companies.
- (4) Information as directed by the Commission under section 128 of the Act.
- (5) Reporting of any incident which will restrict it in meeting its obligations under the licence granted to it, including any act of the Commission or omission by others steps taken by the licensee to reduce the effect of such incident.
- (6) Report to the Commission as soon as possible the occurrence of any other incident which materially affects its functioning, within one month from the date of its occurrence, along with:
 - (b) giving full details of the facts within the knowledge of the licensee regarding the incident and its causes
 - (c) in case of delay, the reasons for the delay
 - (d) furnishing of copies of all documents etc when major incident occurs and also to such person as the Commission may direct

18. Transfer of assets of the transmission licensee

- (a) The transmission licensee shall not transfer its utility or any part thereof by sale, lease, exchange or otherwise without obtaining approval of the Commission.
- (b) The transmission licensee shall apply to the Commission giving prior notice of its intention to transfer its utility duly disclosing all relevant facts.
- (c) The Commission may seek any information, it may require, to consider the application of the licensee.
- (d) The Commission may, within 60 days of filing the application allow such transfer subject to such conditions as it may consider appropriate or reject the application duly recording the reasons thereto after due notice to the licensee.

19. Business plan

- (1) The transmission licensee shall submit to the Commission within three months of its license coming into force, or as the Commission may direct, a business plan containing:

- (i) year wise load growth
 - (ii) proposed the year wise transmission loss reduction and action plan thereto
 - (iii) metering plan for metering interface points
 - (iv) investment plan giving details of invest schemes to be undertaken during the period
 - (v) treatment of previous losses
 - (vi) debts restructuring plan
 - (vii) cost reduction plan
 - (viii) projected profit and loss account, balance sheet, cash flow statements and other important financial parameters
- (2) The transmission licensee shall intimate the Commission by the end of first quarter each year, the progress made in implementing the business plan in the previous financial year indicating the variations from the projected business plan, including investment made.
- (3) The transmission licensee shall comply with all the guidelines, orders and directions issued by the Commission from time to time in regard to investments to be made in the transmission business.
- (4) The transmission licensee shall submit to the Commission along with its annual application for determination of tariff, to be filed under section 62 of the Act;
- (a) the highlights of the investment plan consisting of schemes approved by the Commission;
 - (b) schemes submitted for approval;
 - (c) schemes not requiring approval
 - (d) investments made during financial year
 - (e) reallocation of investments in respect of individual projects not exceeding the limits specified by the Commission, including investments made in schemes which does not find a place in the investment plan.

20. Investment

- (1) The Licensee shall not make any investment under any scheme or schemes except in an economical and efficient manner under the terms of this Licence and in accordance with the Regulations, guidelines, directions and orders issued by the Commission from time to time.
- (2) The Licensee shall promptly report to the Commission, schemes in relation to the Transmission System which the Licensee from time to time proposes to implement together with relevant details, including the estimated cost of such

schemes, with requisite break-up and proposed investment plans. The Licensee shall furnish to the Commission such further details and clarifications on the schemes as it may require from time to time. The schemes proposed may be implemented by Licensee subject to the following conditions.

- (a) If the scheme does not involve major investment as defined hereunder without any specific approval from the Commission and within the approved business plan.
 - (b) If the scheme involves major investment for which prior approval of the Commission is required; it shall be implemented after obtaining such approval only.
- (3) The Licensee shall make an application for obtaining prior approval of the Commission for schemes involving major investments as the Commission may specify from time to time, duly justifying that,
- (i) there is a need for the major investment in the Transmission System which the Licensee proposes to undertake.
 - (ii) the Licensee has examined the economic, technical, system and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new transmission system assets, to meet the need and
 - (iii) the Licensee has invited and finalised tenders for procurement of equipment material and/or services relating to such major investment in accordance with a transparent tendering procedure as may be specified by the Commission.
- (4) The Licensee shall submit to the Commission along with the "Expected Revenue Calculation", the annual investment plan for ensuing financial year and shall make investment in the said financial year in accordance with the approved investment plan. In case of unforeseen contingencies, reallocation of funds within the schemes are required in the annual investment plan, the Licensee may make such reallocation in respect of individual projects with prior intimation to the Commission.

21. Investigation of certain matters by the Commission

- (1) The Commission, may, by order, direct any person, specified in the order, to investigate the affairs of a transmission licensee, in the circumstances specified below, and to submit an investigation report within a specified date:
 - (i) if the licensee failed to comply with any of the conditions specified in the license

- (ii) failed to comply with any of the provisions of the Act, rules or regulations made thereunder and the orders / directions issued by the Commission from time to time.
- (2) the investigation shall be made in accordance with the provisions in Section 128 of the Act.
- (3) on receipt of the report of the investigating authority, the Commission may, after giving an opportunity to the transmission licensee to make a representation on the report of the investigating authority, by order:
 - (a) require the licensee to take such action on any matter arising out of the report; or
 - (b) take action to revoke the license

22. Amendment to the transmission license

- (1) The Commission may, *suo moto* or on an application from the licensee or on receiving a compliant or otherwise, issue an amendment to the transmission license in the manner it deemed fit.
- (2) The application for amendment shall be in such form as specified by the Commission and shall be accompanied by a statement of the proposed amendment, duly justification for amendment.
- (3) The applicant shall, within seven days from the date of submission of the application for amendment, publish a notice in two daily newspapers, one in English and another in local language having wide circulation in the area of operation of the licensee as may be specified by the Commission.
- (4) Where an amendment is proposed to the transmission licence by the Commission, *suo moto*, it shall publish a notice itself as in sub-clause (3) above with the following information:
 - (i) particulars of the licensee,
 - (ii) proposed alteration or amendment to the license
 - (iii) the reasons therefor
 - (iv) calling for suggestions or objections etc to the proposed amendment within 30 days from the date of publication of the notice
- (5) All suggestions or objections received within one month shall be considered by the Commission before issue of orders amending or altering the license.
- (6) In case of an application for alteration or amendment in respect of area of supply comprising the whole or in part of any cantonment, aerodrome, forest, dockyard or building or place in occupation of the Government for defence purpose, the

Commission shall not make such alteration or amendment without prior concurrence of Central Government.

23. Contravention of terms and conditions of license

The Commission may pass such order, as it deems fit, in accordance with the provisions of the Act and the rules and regulations made thereunder, if there is contravention of the terms and conditions of the license by the licensee.

24. Revocation of transmission license

- (1) The Commission may revoke a transmission license suo moto or otherwise in accordance with the provisions under section 19 of the Act in any of the following circumstances
 - (i) where the conditions or circumstances under which a transmission license is granted no longer exist;
 - (ii) where the Commission is fully satisfied, after an independent enquiry, that the licensee has willfully defaulted in carrying out its duties under the terms and conditions of the licence, Act or rules and regulations made thereunder or to comply with directives issued by the Commission from time to time.
 - (iii) Where the Commission notices that the licensee's financial, managerial or technical capabilities are not adequate for performing his duties and obligations imposed under the license; or
 - (iv) Where the licensee failed to comply with the directives given under section 29 and 33 (2) of the Act. In this case the license shall not be revoked unless an enquiry is made by the Commission through an adjudicating officer under section 143 of the Act.
 - (v) If the licensee fails to comply with the directions, issued under section 29 (2) and (3) of the Act, he shall be liable to pay a penalty not exceeding Rupees fifteen lakhs.
- (2) The licensee shall be given a notice of not less than three (3) months to the clearly intimating the reasons for revocation of his license to explain as to why his license should not be revoked.
- (3) If the Commission decides to revoke the license of the licensee, it shall indicate in the order the date of effect of such revocation. A copy of the revocation order shall be sent to the State Government, STU, SLD, CEA, Local Authority and to such other authority as the Commission considers necessary.

- (4) The Commission may, instead of revoking the license, continue the license and impose any additional / special conditions on the licensee, which the licensee shall fulfill.
- (5) In case, the licensee is willing to relinquish his license, the Commission may, if considered necessary, permit the transmission licensee to sell his undertaking to any person who is capable of discharging the duties and obligations under the license in public interest, without prejudice to any proceedings which can be initiated or already initiated and to impose any penalty under the provision of the Act and rules or regulations made thereunder.

Chapter – 4

Accounts and Audit

- 25. (1) The transmission licensee shall maintain the statements of accounts in such form and in such manner as specified by the Commission and till such time these are specified by the Commission, the accounts shall be maintained in accordance with the companies Act, 1956 (1 of 1956) as amended from time to time.
- (2) The transmission licensee shall maintain separately the accounts for the licensed business and other businesses.
- (3) The transmission licensee shall prepare, on a consistent basis, accounting statements for each financial year comprising of a profit and loss account, a balance sheet and a statement of resources and application of funds together with notes thereto and showing separately the amount of any revenue, cost, asset, liability, reserve or provisions, which has been either:
 - (i) charged from and to any other business together with a description of the basis of the charge; or
 - (ii) the apportionment or allocation between various businesses together with a description of the basis of such apportionment or allocation
- (4) In respect of accounting statement, as in sub-regulation (3) above, the licensee shall furnish to the Commission a report of the auditors stating that, in their opinion, the statements have been prepared properly and give a correct and fair view of the revenue, costs, assets and liabilities, reserves reasonably attributable to the business to which the statements relate.
- (5) The transmission licensee shall not normally change the basis of apportionment or allocation of revenues or expenditure, except with the prior approval of the Commission. Any change made by the licensee in the basis of charge or apportionment or allocation of revenues or expenditure shall be in accordance with the provisions of the Companies Act, 1956 (1 of 1956), the accounting

standards or regulations and the guidelines issued by the Commission from time to time.

- (6) When a transmission licensee changed the basis of charge, apportionment or allocation adopted in a financial year, he shall also, if directed by the Commission, prepare and submit to the Commission such account statements on the basis of charge, apportionment or allocation as adopted for the immediately preceding financial year.
- (7) The transmission licensee shall submit to the Commission the specified number of copies of the accounting statements and the auditor's report within six months after the closing of the financial year to which they relate.
- (8) The transmission licensee shall render all assistance to the authorized officer of the Commission to inspect the books of the licensee as and when directed by the Commission.
- (9) The transmission licensee shall furnish to the Commission data or information relating to accounts matters as and when directed.

Chapter – 5

Miscellaneous

26. Power to remove difficulties

The Commission, may by general or special order, remove any difficulty in giving effect to the provisions of these regulations.

27. Power to amend

The Commission may, at any time, *suo moto* or otherwise, alter, modify or amend any of the provisions of these regulations.

28. Savings :

Nothing contained in these regulations shall restrict or affect the powers of the Commission

- (a) to issue any directives or orders, as it deems fit, in implementing the provisions of the Act or law as amend from time to time.
- (b) To deal with any matter or exercise any power under the Act for which regulations are yet to be framed, as it deems fit.
- (c) To adopt any procedure which is at variance with any of the provisions of these regulations duly recording the reasons thereto in writing.

J. B. POON,
Secretary,
Meghalaya State Electricity Regulatory Commission,
Shillong.

Copies of Annual Reports or certified audited results to be enclosed in support of above.

- (b) Annual Turnover (in equivalent Indian Rupees – conversion to be done at the rate of exchange prevailing at the end of each year) for immediate past 5 (five) financial years. (Specify financial year as applicable)

DD / MM / YY to DD / MM/ YY	In Home Currency	Exchange rate used	In equivalent Indian Rupees

Copies of Annual Reports or certified audited results to be enclosed in support of above.

Certificate of Credit Rating

Certificate of 'Standard' borrowal account

Certificate stating that RBI has not classified the Applicant as a 'willful defaulter'.

10. List of documents enclosed in support of Sl. Nos. 9 (a) (b) above:

Name of the document

- (a)
- (b)
- (c)
- (d)

11. (a) Whether Applicant himself will be financing the proposed transmission of electricity fully on its own

If Yes, proposed equity by the Applicant

- (i) Amount
- (ii) Percentage

12. In case the Applicant proposes to tie up with some other Agency for equity, then name & address of such agency :

- (a) Name, designation & address of reference person of the other Agency:
- (b) Contact Tel No. :
- (c) Fax No. :
- (d) E-mail ID :
- (e) Proposed equity from the other Agency

- (i) Amount
- (ii) Percentage of total equity
- (iii) Currency in which the equity is proposed
- (f) Consent letter of the other agency to associate with the Applicant for equity participation to be enclosed.
- (g) Nature of proposed tie-up between the applicant and the other agency.

13. Details of debt proposed for the transmission activity :

- (a) Details of lenders:
- (b) Amount to be sourced from various lenders :
- (c) Letters from the lenders in support of the above to be enclosed.

14. Organisation & Managerial Capability of the Applicant :

The Applicant is required to enclose proof of their Organizational & Managerial Capability of officers and staff, in terms of the Regulation 5 of proposed organizational structure & curricula vitae of various executives, proposed office, communication facilities, etc..

15. Approach & Methodology :

The Applicant is required to describe the approach & methodology for setting up its transmission system and conduct of the business of transmission of electricity as proposed by it. This should contain a statement of the Applicant's plan for the business of transmission of electricity during the first year after the grant of licence and future plans for the said business during the next five years.

16. Data relating to the applicant's future business

- (i) Five year Business Plan for transmission of electricity for which the application is made and funding arrangements for meeting its obligations under proposed licence for maintenance, operation, improvement and expansion for future load growth.
- (ii) Five year annual forecasts of costs, sales, revenues and project financing including the assumptions underlying the figures provided.

(Signature of the Applicant)

Dated :

PART - I**TRANSMISSION LICENCE**

- (1) The Meghalaya State Electricity Regulatory Commission under Section 14 of the Electricity Act, 2003 hereby grants this licence to M/s. _____ having its registered office at _____ to construct, maintain and operate intra-state transmission lines, substations and associated installations etc in the area specified in the Schedule attached to this licence and with the powers and upon the terms and conditions specified here in.
- (2) The licence is not transferable.
- (3) The grant of licence to the licensee shall not in any manner restrict the right of the Commission to grant a licence to any other person within the same area for the transmission system described in the schedule attached to this licence. The licensee shall not therefore claim any exclusivity.
- (4) The licence shall, unless revoked earlier, continue to be in force for a period of 25 (twenty five) years from the date of issue of the license.

2. Definitions

Unless the context otherwise requires in these regulations:

“Accounting Statement” means, for each financial year, accounting statements comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto and such other particulars and details and in the manner as the Commission may direct from time to time and showing the

- i) charge from the Licensed Business to any Other Business or vice versa together with a description of the basis of that charge; or
- ii) charge by apportionment or allocation between the Licensed Business and any Other Business of the Transmission Licensee together with a description of the basis of the apportionment or allocation.

“Act” means the Electricity Act, 2003 (36 of 2003).

“Accounts” means the accounts of the Transmission Licensee prepared in accordance with the provisions of the Companies Act, 1956, and/or in accordance with the guidelines / directions issued by the Commission from time to time;

“Area of Activity” means the area specified in the Transmission Licence by the Commission within which the Transmission Licensee is authorized to establish, operate and maintain transmission lines;

“Auditors” means the auditors appointed by Transmission Licensee and if the transmission licensee is a company the auditors appointed in accordance with the provisions of the Companies Act, 1956 (1 of 1956), as amended from time to time.

“Authorized” means authorized by licence granted under Section 14 of the;

“Business Plan” means a plan of action for a specified period in relation to the licensed business, as directed by the Commission.

“Central Commission” means the Central Electricity Regulatory Commission constituted under Section 76 of the Act.

“Commission” means the Meghalaya State Electricity Regulatory Commission constituted under Section 82 of the Act.

“Consumer” means any person who is supplied into electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person as the case may be;

“Deemed Licensee” means any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws or any Act specified in the schedule on or before the appointed date;

“Distribution system” means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the point of connection to the installation of the consumers;

“Force Majeure” means events beyond the reasonable control of the Licensee including, but not limited to earthquake, cyclone, flood, storm, war, terrorist attack, civil commotion or other similar occurrence that leads to any act that would involve a breach of relevant laws or regulations by the licensee;

“Grid Code” means the Code specified by the Commission in accordance to Section 86(l)(h) of the Act.

“Intervening Transmission Facilities” means the electric lines owned or operated by a Transmission Licensee where such electric lines can be utilized for transmitting electricity for and on behalf of another licensee;

“Licensed Business” means the business of Transmission of electricity in the area specified in the Transmission licence;

“Major Incident” means an incident associated with the Transmission of electricity, which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to human beings, or as otherwise directed by the

Commission and shall also include any other incident which the Commission expressly declares to be a major incident;

“Open access” means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or systems by any licensee or consumer or a person engaged in generation as per the regulations specified by the Commission.

“Operational Control” means the authority to make operational decisions such as commissioning and utilisation of units, transmission lines and equipment.

“Other Business” means any other business of the Transmission Licensee other than the Licensed Business of the intra-state transmission, which the licensee undertakes for optimum utilisation of its assets.

“Performance Standard” means the standards as may be specified by the Commission pursuant to Section 57 of the Act;

“Person” shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

“Regulations” means the Regulations made by the Commission, under the provisions of the Act;

“State” means the State of Meghalaya

“State Government” means the Government of Meghalaya.

“Transfer” means include the sale, exchange, gift, lease, licence, loan, securitisation, mortgage, charge, pledge or any other encumbrance or otherwise permitting any encumbrance to subsist or parting with physical possession or any other disposition or dealing;

“Transmission Business” means the business under a Transmission License to transmit electricity through any system owned and/or operated by the Licensee;

“Transmission License” means a license granted to a person to establish and operate transmission lines or transmission system and the transmission licensee shall be construed accordingly.

“Transmission Operating Standards” means the standards specified for operation of the Transmission System of the licensee as approved by the Commission;

“Transmission Planning and Security Standards” means planning of the transmission system to cater to the requirements of the transmission system of the licensee and the security standards of maintenance of the Transmission System as approved by the Commission;

“Transmission System” means the system consisting mainly of extra high voltage electric lines having nominal voltage of 66 kV and higher and shall include all plant and

equipment in connection with transmission, owned or controlled by the Transmission Licensee.

“Use of System” means use of the Transmission System for the conveyance of electricity to any person pursuant to a contract entered into by the Transmission Licensee;

“Users” means any one who uses the Transmission System.

Words, terms and expressions used and not defined in the regulations but defined in the Act or in any law applicable to the electricity industry shall be as assigned to them in the Act or in any law applicable.

3. Terms of the Licence

- (1) The Transmission Licence shall come into force on the date mentioned by the Commission in the order granting licence on specified terms and conditions and shall remain in force for a period of twenty five years, unless it is revoked earlier by the Commission under section 19 of the Act.
- (2) The Commission reserves the right to change at any time, *suo motto* or otherwise, the terms and conditions specified in licence in accordance with the provisions of the Act or this Licence.

4. Compliance with Laws, Rules and Regulations

- (1) The Transmission Licensee shall comply with the provisions of the Act and the Rules or Regulations made and the provisions of all other applicable laws.
- (2) The Transmission Licensee shall comply with the General Conditions except where the Transmission Licensee is exempted from any of the Conditions by the Commission for any deviation.
- (3) The Transmission Licensee shall duly comply with the orders and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other functions under the Act.

PART - II

General Conditions

5. The Licensee shall always comply with the Orders and Directions issued by the Commission from time to time on any matter.

6. Activities which the transmission licensee is prohibited to do

The licensee is prohibited from carrying out following activities:-

- (a) The licensee shall not acquire any interest in the business of a distribution license.
- (b) The licensee shall not, either directly or through its subsidiary, engage in the business of trading of electricity.
- (c) When the licensee is engaged in "Other Business" (reference: Section 41 of the Act) the main transmission business shall not subsidize the "Other Business" or encumber its transmission assets in any way to support such other business.
- (d) The licensee shall not show undue preference to any person.

7. Activities requiring prior consent

The licensee shall obtain prior approval of the Commission before carrying out the following:-

- (a) undertake any transaction to acquire by purchase or take over or otherwise the utilities of any transmission licensee.
- (b) merge his utility with the utility of any other transmission licensee
- (c) assign his licence or transfer its utility or any part thereof to any person by sale, lease, exchange or otherwise.

8. Conditions to be complied by the Licensee

The licensee shall comply with the following:

- (1) requirements of law in force, the Acts, grid code, transmission operating standards, transmission planning, safety standards, rules, regulations and orders / directions issued by the Commission from time to time.
- (2) the orders / directions issued by the National Load Despatch Centre, Regional Load Despatch Centre, State Load Despatch Centre and other statutory agencies.
- (3) Omit or neglect any transmission activity under the license for four consecutive quarters, which will entail to revoking the license under section 19 of the Act.
- (4) Shall not enter into:
 - (i) agreement leading to abuse of his dominant position; or
 - (ii) any combination which is likely to cause adverse effect on completion of electricity industry
- (5) The Licensee shall perform the duties stipulated in Section 40 of the Act in addition to fulfilling the terms and conditions stipulated in the licence.
- (6) The Licensee shall build, maintain and operate an efficient coordinated transmission system.
- (7) The licensee shall operate the transmission system always economically so that the transmission charges are kept at the minimum.

- (8) The Licensee shall operate the transmission system in such a manner that the parameters are maintained in the ranges prescribed in the Central Grid Standards and the State Grid Code all the time and ensure that the system is available at all times to inject power to enable the distribution licensee or other customers to draw power as required.
- (9) The licensee shall coordinate with Regional Power Committee, Regional and State Load Despatch Centres, Central Transmission Utility, State Transmission Utility, generating companies and licensees to ensure uninterrupted supply to the consumers.
- (10) The licensee shall obtain prior approval from the Commission before entering into any agreement with another company for supply of power to consumers in his area.
- (11) The licensee shall maintain up to date records of energy transmitted for each element of the system and produce the same to the Commission whenever required.
- (12) The licensee shall establish adequate communication and information system / facilities before commencing transmission of power.
- (13) The licensee shall act in a prudent and reasonable manner in obtaining credit facilities under the license.
- (14) The licensee shall always retain operational control over its assets.
- (15) The Licensee shall seek approval of the Commission before advancing loans, or issuing any guarantee for any obligation of any person except when made or issued for the purposes of the Licensed Business. However loans to employees pursuant to their conditions of service and advances in the ordinary course of business are exempted from the requirement of obtaining approval of the Commission.
- (16) The Licensee may provide or obtain any goods or services to another licensee, in connection with its transmission business, subject to the following conditions.
 - (a) the transaction will be on an arms-length basis;
 - (b) the transaction shall be in accordance with the regulations framed by the Commission relating to the provision of goods and services with respect to the transmission business; and
 - (c) the licensee shall give 15 days notice to the Commission prior to commencement of the proposed arrangement.

9. Other Business

- (1) The licensee may carryout any Other Business, other than licensed business, for optimum utilization of its assets with prior intimation to the Commission.

- (2) The licensee shall carry out any Other Business in a way that the main transmission business shall not subsidize such Other Business or encumber its assets in any way to support such business.
- (3) A proportion of the revenues derived from such Other Business shall be utilized for reducing the transmission charges and wheeling charges.
- (4) Separate accounts shall be maintained for the main transmission business and each of the Other Businesses such that of revenues, expenses, assets and liabilities pertaining to each of the Other Businesses can be identified and distinguished from those of the licensed transmission business.

10. Accounts

- (1) Unless otherwise specified by the Commission, the financial year for the purposes of licensed business shall be from 1st April to 31st March.
- (2) The transmission licensee shall, in respect of the licensed business and any other business:
 - (a) prepare and maintain, on a consistent basis, all accounting records and deliver to the Commission:
 - (i) accounting statements such as profit and loss, balance sheet or any other statement in the manner specified by the Commission, and as per the provisions of the Companies Act, 1956 (1 of 1956) as amended from time to time.
 - (ii) Submit to the Commission, on specified dates, the profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time.
 - (iii) In respect of the accounting statements prepared, an auditor's report, for each financial year, stating that, in their opinion, the statements have been properly prepared in accordance with the Companies Act, 1956 and give a true and fair view of the revenues, costs, assets, liabilities, reserves and the provisions of, or reasonably attributable to such business to which the statements relate.
 - (iv) Copies of the audited accounting statements together with auditor's report shall be submitted to the Commission within six months after the end of the financial year.
- (3) The transmission licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses for preparation of accounting

statements in respect of a financial year from the basis applied in respect of the previous financial year, without prior intimation to the Commission. Any change in the basis of charge or apportionment or allocation of revenues or expenses shall be consistent with provisions of the Companies Act, 1956 (1 of 1956), the accounting standards or rules and guidelines issued by the Commission from time to time in this regard.

- (4) Where, in relation to the accounting statements in respect of a financial year, the licensee has changed the basis of charge or apportionment or allocation from that adopted for the immediately preceding year, the licensee shall, if requested by the Commission, prepare accounting statements on the basis which it applied for the immediately preceding year, in addition to preparing accounting statements on the basis which it has adopted.
- (5) As directed by the Commission, the transmission licensee shall:
 - (a) prepare and publish its annual accounts in the manner specified by the Commission;
 - (b) provide the accounting principles adopted
 - (c) prepare the accounts and statements in accordance with the generally accepted Indian accounting standards.
- (6) The references to costs on liability, reasonably attributable to the licensed business or other business shall be construed as excluding taxation.
- (7) The transmission licensee shall maintain separate accounts for the licensed business and other business to ensure that the assets and liabilities of the licensed business are not encumbered by other business of the licensee.
- (8) Any person authorized by the Commission shall inspect and verify the accounts of the transmission licensee and the licensee shall render all necessary assistance to such person.

11. Furnishing of information

The licensee shall furnish to the Commission without undue delay such information, documents and details relating to the licensed business or any other business of the Licensee as the Commission may require for its own purpose or for the purpose of the Government of India, State Government, Central Commission and Central Electricity Authority.

12. Major Incidents

- (1) The licensee shall report to the Commission any major incident that has occurred which effects the supply in the area of the transmission licensee. Any deviation from

standard operating conditions which was triggered by cross boundary effect, in the system of generators, distribution system or in the system of extra high voltage consumers resulting in the loss of equipment or life of a person or animal, shall be deemed a major incident.

- (2) The licensee shall
 - (i) submit a detailed report giving facts of each incident, the causes and the adverse effects on the total power system. (The total power system comprises the transmission system, generating units, distribution system and the system of the EHT consumers).
 - (ii) submit a note on the licensee's analysis of the major incident and the remedial measures taken for preventing recurrence of such major incidents.
 - (iii) send copies of the report and the note to the State Load Despatch Centre, State Transmission Utility, State Government, and Chief Electrical Inspectorate etc.
- (3) The decision of the Commission whether a particular incident is a major incident or not shall be final.
- (4) The Commission may direct the licensee to submit a report on any incident which comes to its notice. In such a case, the licensee shall submit a detailed report as in sub-regulation (2), to the Commission.
- (5)
 - (i) The Commission may direct an independent authority to inquire on any major incident and submit a report.
 - (ii) The Commission may analyse the report and the information received from all sources and decide whether the major incident occurred is a Force Majeure event or is caused by violation of conditions of licence or provisions of Grid Code or the rules and regulations made under the Act.
- (6) The Commission may decide the following:
 - (b) remedial measures to be taken on one or more of the operators (or owners) of the parts of the total power system (including the transmission licensee) to prevent recurrence of similar major incidents.
 - (c) Punitive measures to be imposed on one or more persons for lapses which caused the major incident.
 - (d) Compensation to be paid by one party to another party [by the owner (or operator) of a segment of the total power system to the owner (or operator) of another segment of the total power system].
- (7) The Commission shall send its views and decisions on the major incident to the State Load Despatch Centre, Chief Electrical Inspector, State Transmission Utility etc.

13. Business Plan

The licensee shall comply with the provisions in Regulation 19 relating to submission of business plan.

14. Investment

The licensee shall comply with the provisions in Regulation 20 relating to investment plan.

15. Transfer of Assets

- (1) The Licensee shall not transfer or relinquish operational control over any of the assets pertaining to its licensed business such as transmission equipment, lines, land, building, or any other asset.
- (2) The Licensee shall give, to the Commission, written notice of its intention to transfer or relinquish operational control over any of its assets and obtain prior approval before affecting such transfer.
- (3) The Licensee may utilize the assets as a means of facilitating funding or financing the Licensed Business in the ordinary course of business, subject to the conditions.
 - (a) That the Licensee will inform the Commission about such arrangements at least 15 days prior to the effective date of the relevant agreements.
 - (b) The Licensee acts in a prudent and reasonable manner in such utilisation of assets.

16. Rights of the Licensee

- (1) The licensee may erect and commission any overhead transmission lines, lay cables of transmission voltage and construct substations in accordance with the transmission plans in order to fulfill the conditions stipulated in the licence. He shall comply with the safety regulations issued by the Central Electricity Authority and relevant laws under Section 67, 68 and 69 of the Act in acquisition of land for lines and substations and while executing works.
- (2) The licensee shall inform the Commission and STU whenever construction work on a new transmission component is commissioned.

17. Payment of Licence Fee

- (1) Within such period, after coming into force of this licence, the Transmission Licensee shall pay to the Commission an initial fee, as specified by the Commission, on a pro-rata basis for the balance period of the financial year.
- (2) As long as licence remains in force, the licensee shall pay to the Commission an annual fee as specified on or before 15th April of every year. The Commission may review the quantum of annual licence fee after every three years and notify the same.
- (3) Where the licensee fails to pay to the Commission the stipulated fees by the due dates:
 - (i) the licensee shall be liable to pay to the Commission interest on the outstanding amount a specified rate of interest rate per month, the interest being payable for the period beginning on the day on which the amount becomes due and ending on the day when payment is made; and
 - (ii) the licensee shall be subject to the proceedings for the recovery of such fee specified in the Act and
 - (iii) the Commission may revoke the licence pursuant to Section 19 of the Act for any continuous default in payment of license fee
 - (iv) The licensee shall be entitled to take into account any fee paid by it in the determination of aggregate revenue but shall not take into account any interest paid pursuant to the condition 3 (i) above.

18. Revocation of Licence

Subject to the provisions of Section 19 of the Act and the Regulations (Licensing for Transmission of Electricity) framed thereunder, Commission may at any time initiate proceedings against the Transmission Licensee for revocation of the Transmission licence and if so satisfied in such proceedings that the public interest so requires, it may revoke the Transmission licence in any of the circumstances stated in the Regulation 23 of the MSERC Transmission Licensing Regulations, 2010.

19. Amendment of Licence Conditions

The Commission may *suo moto* or on application by the transmission licensee may alter or amend or modify the terms and conditions of the license subject to provision of Section 18 of the Act Regulation 21 of the MSERC Regulations (Licensing for Transmission of Electricity) Regulations, 2010.

PART - III**20. Technical Conditions**

The transmission licensee shall abide by the following technical conditions

(1) The Licensee shall ensure that the Transmission System is capable of providing an efficient, coordinated and economical system of Transmission.

(2) The Licensee shall

(i) plan and develop its Transmission System in accordance with the Transmission System Planning and Security Standards and the Grid Code as approved by the Commission; and

(ii) operate the Licensee's Transmission System in accordance with the Transmission System Operating Standards and the Grid Code as approved by the Commission and in coordination with the National / Regional Load Despatch Centre, State Transmission Utility and State Load Despatch Centre

(3) The Licensee shall, within 60 days from the date when Licence becomes effective; submit to the Commission the existing

• Planning and Security Standards	}	Standards for its Transmission System
• Operating Standards		

• Planning and Security Standards	}	Standards for its Power Supply System
• Operating Standards		

Including those relating to:

- Generation Capacity connected to its Transmission System in MW

The above existing standards, with such modification as the Commission may direct, shall continue to be operative until new standards are approved by the Commission pursuant to Section 57 (1) of the Act.

(4) The Licensee shall, within six months, or such longer time as the Commission may allow, after Licence has become effective, prepare, in consultation with the Suppliers, Generating Companies, Central Transmission utility, Regional Electricity Boards , State Transmission Utility, State Load Despatch Centre and such other Person, as the Commission may specify, and submit to the Commission for approval the Licensee's proposals for Transmission Planning and Security Standards. Transmission Operating Standards, Power Supply Planning and Security Standards and Power Supply Operating Standards.

(5) The transmission licensee shall submit a quarterly report to the Commission on

- (a) its performance in accordance with the approved standards to enable it to review the need for revision of the standards, as and when necessary.
 - (b) an annual report on its performance based on the approved standards under clause (a)
 - (c) The Commission shall review the performance of the transmission licensee and issue necessary orders / directions to the licensee to take corrective actions where necessary.
21. The licensee shall, on an annual basis, prepare a forecast the demand for power within the Area of Transmission and Bulk Supply and prepare and submit the forecasts to the Commission in accordance with the guidelines issued by the Commission from time to time.

22. Compliance with Grid Code by the Transmission Licensee

The transmission license shall ensure due compliance with the Indian Electricity Grid Code and Meghalaya State Electricity Grid Code.

23. Central Scheduling and Despatch

- (1) The Licensee shall undertake operational planning matching to possible output of all Generating Sets or and any other Bulk Supplier and other sources of electrical energy connected to the Licensee's Transmission System (including a reserve of generation to provide a security margin or generation availability) to meet the demand after taking into account, inter alia:
 - (i) non-availability of Generating Sets; and
 - (ii) constraints from time to time imposed by technical limitations on the Total System or interconnections with other transmission systems or any part(s) thereof;
 - (iii) consistent with any possible restrictions to be imposed on the supply in exigencies.
- (2) The Licensee shall schedule its drawal of power from the Generating Sets and other sources of power based on merit order despatch taking account of information provided by Suppliers, the Central / State Transmission Utility, State Load Despatch Centre and the Regional Electricity Board / Regional Power Committee together with an appropriate margin for reserve.
- (3) The Licensee shall provide to the Commission such information as the Commission shall require concerning the merit order despatch or any aspect of its operation.

PART - IV**24. Use of System and Connection to System**

(1) The licensee shall make such arrangements for use of the Transmission System by third parties on application made by any third party. The Licensee shall enter into an agreement with that person for the use of the Transmission System covering, among others;

- (i) Mode of delivery such electricity, adjusted for losses of electricity, to a designated exit point;
- (ii) charges to be paid by the user, which shall be as approved by the Commission

Explanation: The third parties referred to in this condition 23.1 means

- i) Persons authorized under a legislation enacted by the Union of India to wheel power across the Transmission System in an inter-state conveyance of energy.
 - ii) Such persons as the Commission may authorize to use the Transmission system.
25. The Licensee shall enter into an agreement with such Supplier and / or Consumer, as the case may be, for connection to the Transmission System or for modification of such an existing connection and such agreement shall make provision for
- (a) carrying out the works necessary to make the required connection, including the installation of meters;
 - (b) carrying out any necessary work to reinforce the Licensee's Transmission System;
 - (c) connection charges to be paid as specified by the Commission and
 - (d) date of completion and such other terms as are relevant to the circumstances.

26. (1) The Licensee shall not be obliged to enter into any agreement if it is likely to involve the Licensee;

- (i) in breach of its duties under Section 17 of the Act or any rules or Regulations relating to safety standards applicable to the Transmission Business including, the Indian Electricity Rules 1956; or
- (ii) in breach of the Grid Code; or
- (iii) in breach of any of the conditions of this Licence; or if

(2) The Licensee has failed to enter into an agreement with any applicant referred in clause 24 above, the Commission may at the request of a party settle such terms in dispute between the Licensee and that Person and issues orders to the Licensee as it may consider appropriate.

The Licensee shall prepare and submit to the Commission on annual basis, a statement as specified by the Commission, showing forecasts of circuits' capacity, power flows and loading on the Transmission System under standard planning criteria, together with details of

- (i) use of system to identify and evaluate the opportunities available when connecting to and making use of such system; and
- (ii) the Licensee indicating the Licensee's views as to those parts of the Licensee's Transmission System most suited to new connections and transmission of electricity.
- (iii) any facility for which any other Person or a Supplier has requested the use of and connection to the Transmission System and not agreed to;
- (iv) amount reflecting the Licensee's reasonable costs of providing such the required supply in item (iii) above.

PART - V

Expected Revenue Calculation and Tariffs

27. Expected Revenue and Tariff Filings

- (1) The Licensee shall follow the methodology, procedures and other directions issued by the Commission from time to time and provisions contained in the Tariff Regulations while filing statements of expected revenue from the existing approved charges.
- (2) The licensee is permitted to recover from its tariffs in any financial year the amount that the Commission determines in accordance with the financial principles and their applications as provided in Section 62 of the Electricity Act 2003.
- (3) The Licensee shall calculate its charges in accordance with the tariff Regulations, the orders of the Commission and other requirements prescribed by the Commission from time to time.
- (4) The Licensee may publish a tariff for its Transmission of electricity reflecting the tariff charges and the other terms and conditions as directed by the Commission.
- (5) The Licensee may apply to the Commission to amend its tariffs in accordance with the Act and applicable Regulations and directions of the Commission duly furnishing the required data for its consideration and orders.

PART- VI

Miscellaneous Matters

28. Miscellaneous Matters

All issues arising in relation to interpretation of these General Conditions shall be a matter for determination by the Commission and the decision of the Commission on such issues shall be final, subject only to the right of appeal under Section 111 of the Act.

29. The Commission may at the time of grant of Transmission Licence waive or modify the application of any of the provisions of these General Conditions either in the order granting the licence or by Specific Conditions made applicable to a Transmission Licence.

30. These General Conditions shall apply to the Transmission Licensee from the date of commencement of the license.

Transmission Licence

Schedule

_____ Transmission Licensee

Name of Licensee)

The entire state of Meghalaya including cantonment, airdrome, fortresses, arsenal, dockyard or camp of any building or place in occupation of Central Government for defence purposes, where permission has been obtained.

By the Order of the Commission

Secretary

Place:

Date:



The Gazette of Meghalaya

EXTRAORDINARY

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PART II-A

GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th February, 2011.

No.MSERC/Distri-Lic/06//2011/01.-The following draft of the Meghalaya State Electricity Regulatory Commission (Grant of Licenses for Distribution of Electricity) Regulations, 2011 which the Commission proposes to make in exercise of the powers conferred under subsections (1) and (2) of section 181 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) of section 181 and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(GRANT OF LICENSES FOR DISTRIBUTION OF ELECTRICITY)
REGULATIONS, 2011.

(_____ of 2011)

CHAPTER – 1

GENERAL

1. Short title, extent and commencement

- (i) These regulations may be called the Meghalaya State Electricity Regulatory Commission (Grant of licence for Distribution of electricity) Regulations, 2011.
- (ii) They shall apply to the whole State of Meghalaya
- (iii) They shall come into force on the date of their publication in the Gazette of Meghalaya..

2. Definitions

- (1) In these Regulations, unless the context otherwise requires:
 - (a) ‘**Act**’ means the Electricity Act, 2003 (Act 36 of 2003);
 - (b) ‘**Applicant**’ means any person, including any company or body corporate or association or body of individuals, whether incorporated or not, who makes an application under Section 15 of the Act for grant of licence for distribution of electricity;
 - (c) ‘**Area of Distribution**’ or ‘**Area of Supply**’ means area within which a Distribution Licensee is authorized by his license to establish , operate and maintain a distribution system for supply of electricity under the terms and conditions stipulated by the Commission in the licence;
 - (d) ‘**Auditors**’ means the Distribution Licensee’s auditor, and, if the distribution licensee is a Company, auditors holding office in accordance with the requirement of the companies Act 1956 as amended from time to time.
 - (e) ‘**Authority**’ means the Central Electricity Authority referred to in sub-section (1) of section 70;
 - (f) ‘**Bulk Supply**’ means the sale of electricity in bulk to any person for resale.
 - (g) ‘**Commission**’ means the Meghalaya State Electricity Regulatory Commission (MSERC) constituted under section 82 (1) of the Act by the Meghalaya State Government;
 - (h) ‘**Deemed Licensee**’ means a person as defined under first, third and fifth provisos under section 14 of the Act;
 - (i) ‘**Distribution**’ means the conveyance or wheeling of electricity by means of a distribution system;

- (j) **'Distribution Supply Code'** means the code governing all material technical aspects relating to service connections and operative use of the distribution system as approved by the Commission;
- (k) **'Distribution Licensee'** means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his specific area of supply;
- (l) **'Force Majeure'** means any event beyond the reasonable control of a Distribution licensee but not limited to earthquake, cyclone, lightning, riot, flood, storm, war, mutiny, terrorist attack, civil commotion, lock out, fire affecting the Licensee's installations or other similar occurrence that leads to any act which would involve a breach of relevant laws or regulations concerned with supply of electricity;
- (m) **'Licence'** means Distribution licence granted under section 14 of the Act.
- (n) **'Licenced Business'** means the business relating to supply of electricity as authorised under a Distribution licence.
- (o) **'Major incident'** means an incident associated with the supply of electricity, which results in a significant interruption of service / causing substantial damage to equipment or loss of life or significant injury to human beings or animals, as the case may be, and includes any other incident which the Commission expressly declares to be a major incident;
- (p) **'Other Business'** means business carried out by a Distribution licensee other than the Licenced Business;
- (q) **'Performance Standards'** means standards of performance as may be specified by the Commission under section 57 (1) of the Act.
- (r) **'Specific Conditions'** means the conditions, which the Commission may lay down, in addition to or in variance to those general conditions applicable to a Distribution licensee;
- (s) **'State'** means State of Meghalaya;
- (t) **'State Government'** means the Government of Meghalaya.
- (u) **'Supply'** in relation to electricity, means the sale of electricity to a licensee or consumer;
- (v) **'Tariff Regulations'** means the Meghalaya Electricity Regulatory Commission (Terms and conditions for determination of Tariff) Regulations, _____.

(2) Words and phrases not defined in these Regulations

The words and expressions used and not defined in these Regulations but defined in the Act or any other law or Regulation applicable to electricity industry shall have the meaning assigned to them in the Act or any other such law or Regulations, as the case may be.

3. Interpretation

In these Regulations, the following shall be interpreted as:

- (a) Words in the singular include the plural and vice versa
- (b) Words in the masculine gender include the feminine gender and vice versa.
- (c) the terms “include” or “including” shall be considered as followed by “without limitation” or “but not limited to” whether they are actually followed by similar expressions or not in these Regulations.
- (d) References to these Regulations shall be construed as references to the Regulations as amended or modified from time to time.
- (e) The headings are inserted for convenience.
- (f) References to various Acts, Laws, Rules, Regulations and guidelines shall be construed as including all amendments notified thereto.

CHAPTER – 2

PROCEDURE FOR GRANT OF DISTRIBUTION LICENCE

4. Application for grant of Distribution Licence

- (1) A person intending to engage in the business of distribution of electricity in the State of Meghalaya, shall make an application to the Commission for grant of licence in the Form I appended to these regulations and accompanied by such fees as may be prescribed from time to time.
- (2) The Commission may, if it considers necessary, invite applications from the public fulfilling such eligibility requirements, as may be specified by the Commission from time to time for grant of licence for distribution of electricity through issue of advertisements in newspapers following the principle of transparency.
- (3) The application shall be signed by the applicant or by an authorized signatory on behalf of the applicant and shall be filed in six (6) sets accompanied by documents and particulars required to be provided as per the application in Form-I.
- (4) The application shall be accompanied by an affidavit authorizing the person to sign or represent on behalf of the applicant.

5. Requirements to be fulfilled by the applicant

The applicant applying for the grant of a distribution license shall fulfill the following criteria, that is -

- (a) Technical capability: Experience / capability in development, design, operation and maintenance of distribution system lines (including substations) at the voltage level at which the assets in respect of which the application for grant of license has been made.

Note: The experience in development, design, operation and maintenance of the distribution system shall be construed as relevant experience at voltage level of 33kV and below.

- (b) Financial capability: The networth of the applicant shall not be less than the estimated annual distribution charges of the assets in respect of which an application for grant of license has been made.

Note: The applicant may be required to furnish evidence of his capabilities if so required by the Commission.

6. Calling for additional information

The Commission may, upon scrutiny of the application, require the applicant to furnish within a period as it may direct, such additional information or particulars or documents as it may consider necessary for the purpose of considering the application.

7. Publication of notice of application

- (1) The applicant shall within seven days from the date of making the application, publish a public notice, in such manner as may be specified by the Commission, in at least two daily newspapers, one in English language and another in local language, having wide circulation in the area of distribution of electricity for which the licence is applied and shall within seven days from the date of such publication of the submit to the Commission the details of the notice published along with copies of the relevant newspapers in which the notices have been published.

8. Public Inspection of Application and Documents

- (1) The applicant shall make available for public inspection copies of the application (with all enclosures), for grant of licence in his own office and also in the offices of the local authorities located in the proposed area of the distribution licence.
- (2) The applicant shall also supply a copy of the application to any person who requisitions for it on payment of the cost which shall not exceed the cost of photocopying.

9. Objections

- (1) Any person intending to object to the grant of distribution licence shall file objections within thirty (30) days from the date of issue of publication of the notice referred to in Regulation 7 (1) above annexing thereto proof of having served copy of such objection upon the applicant.
- (2) The Commission shall supply copies of all objections received to the applicant for filing his comments within fifteen (15) days of receipt of the copies of the objections to the Commission.

10. Consideration of objections

- (1) A licence shall not be granted –
 - (a) until the objections, if any, received by the Commission in response to publication of the application have been considered by it:
Provided that no objection shall be so considered unless it is received before the expiration of thirty days from the date of the publication of such notice as aforesaid;
 - (b) In the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission has to ascertain that there is no objection for grant of a license to the distribution licensee on the part of the Central Government.

11. Hearing and local inquiry

The Commission, if it considers appropriate, order an inquiry to ascertain the objections received against the applicant. On receipt of the report, the Commission may take a decision to grant a license to the applicant based on merits of the case or not .

12. Grant of Distribution Licence

- (1) Before granting a licence under section 14 of the Act, the Commission shall publish a notice in two daily newspapers one in English and other in local language having wide circulation in the area for which licence is sought, stating the name and address of the person to whom it proposes to issue the licence;
- (2) The Commission may decide to grant or refuse to grant licence and if it decides to grant licence, it may do so specifying the general terms and conditions or such specific conditions, as the Commission may deem necessary.
- (3) The Commission in no event shall not reject an application without giving applicant an opportunity of being heard, either by requiring the applicant to file his response or by conducting an oral hearing.
- (4) The Commission shall, within 90 days after receipt of application,
 - (a) issue of a distribution license, subject to the provisions of the Act, as amended from time to time. A draft format of distribution license is in Appendix II.
 - (b) Reject the application, for the reasons to be recorded in writing, if the application is not in accordance with the procedure stipulated by the Commission.
- (5) The Commission shall immediately after issue of a licence, forward a copy of the licence to the Government of Meghalaya, State Transmission Utility, Central Electricity Authority, local authority, and to such other authority as the Commission considers necessary.

13. Date of commencement and duration of Distribution licence

- (1) The licence shall come into force from the date specified by the Commission in the license
- (2) The licence shall be in force for a period of twenty five (25) years, from the date of commencement unless it is revoked by the Commission under section 19 of the Act.

14. Deposit of printed copies of Distribution licence

Every distribution licensee shall supply, free of charge, one copy of the licence and the relevant maps to every local authority within the area of activity or area of supply, as the case may be, and shall also make necessary arrangements for the sale of

printed copies of the licence to all persons applying for the same, at a price not exceeding normal photocopying charges thereof.

15. Payment of license fee

- (a) Every licensee, including deemed licensee, shall pay initial or an annual licence fee on or before a specified date as may be fixed by the Commission.
- (b) If the licensee fails to pay the prescribed fee to the Commission on the due date, the licensee shall be liable to pay to the Commission interest on the outstanding amount as may be specified by it. The interest shall be payable for the period from the day on which the amount became due and ending on the day on which the payment is made;
- (c) The licensee shall be entitled to take into account any fee paid by him for determination of aggregate revenue requirement in accordance with sub-clause (a) above but shall not take into account any interest paid in accordance with sub – clause (b) above.

16. Acts which a Distribution Licence has to do

- (1) The licensee shall-
 - (a).not directly or indirectly undertake distribution of electricity, trading in electricity or distribution or supply of electricity outside its area of operation but shall restrict it to the relevant approved area;
 - (b).furnish such information required for the purposes of review by the Commission, as may be specified from time to time;
 - (c).comply with the provisions of the Act, the Regulations of the Commission, technical codes such as Grid Code, Electricity Supply Code, Standards of Performance or any other orders / directions / guidelines issued by the Commission;
 - (d).comply with all rules and regulations governing the safety and security of the operation of the distribution system;
 - (e).levy the tariff or charges as determined by the Commission from time to time for the various categories of consumers; and
 - (f). implement the orders or directions issued by the Commission from time to time in respect of the conditions under the license.

17. Acts which a licensee (s) shall not undertake

- (1) No licensee, except with prior approval of the Commission, shall undertake:

- (a) any transaction to acquire, through purchase or takeover or otherwise, any utility of any other licensee; or
- (b) merge his utility with another utility of any other licensee.
- (2) No licensee shall, without prior approval of the Commission, assign or transfer his utility or Licence or part thereof through sale, lease, exchange or otherwise.
- (3) Before obtaining approval of the Commission under sub-regulations (1) and (2) above, a licensee shall give a notice of not less than one (1) month to every other licensee, who distributes electricity in the area of such licensee.
- (4) Any agreement entered into by the licensee in respect of sub-regulations (1) to (3) above shall become void unless the approval of the Commission is obtained thereto.
- (5) Where such permission is required, the licensee shall file an application with the Commission duly furnishing all relevant information. The Commission may, within thirty (30) days of the receipt of such application, accord permission subject to the terms and conditions as it deems necessary or reject the application for reasons to be recorded in writing after giving an opportunity to the licensee to put forth his plea.

18. Furnishing of information to the Commission etc.

Every licensee shall furnish information, as may be required, in respect of the business (es) carried out by him to the Commission, the State Government, the Central Electricity Authority or any other authority, as the case may be.

19. Contravention by Distribution Licensee

The Commission may pass such orders, as it thinks fit, in accordance with the provisions of the Act and these Regulations if there is a contravention of the terms and conditions of licence by the licensee.

20. Suspension of Distribution Licence

- (1) The Commission may, at its discretion, suspend temporarily a licence granted to a distribution licensee under section 24 of the Act, if the licensee has -
 - (d) continuously failed to maintain uninterrupted power supply to the consumers in accordance with the standards; or
 - (e) not discharged the functions or duties imposed on the Licensee either by the Act or the Regulations framed by the Commission; or

- (f) defaulted in complying with any direction of the Commission; or
 - (g) deviated from the terms and conditions of the licence;
- (2) If it is considered necessary to suspend licence of a distribution licensee in public interest, the Commission may suspend the licence upto a period not exceeding one (1) year.
- (3) Before suspending the licence, the Commission shall give a reasonable opportunity to the distribution licensee to represent his case against such suspension and shall consider such representation and pass such orders as it may deem necessary.
- (4) (a) When the licence of a distribution licensee is to be suspended, the Commission shall appoint an Administrator under section 24 (1) of the Act to look after the functions and duties of the distribution licensee during the period of suspension of the licence in accordance with the terms and conditions specified in the licence.
- (b) The Commission shall also vest the utility or utilities of the distribution licensee in the Administrator during the period of suspension of the licence.
- (5) (i) Based on the merits of the case, the Commission shall decide within the period of one year whether the suspension is to be revoked or not and if so, on what date.
- (ii) In case the suspension is revoked, the Commission shall direct the Administrator to retransfer the utility or utilities to the distribution licensee from the date of revocation of suspension. All the expenses incurred during the period of suspension of the license by the Arbitrator shall be debitable to the licensee.

21. Revocation of the Distribution Licence

- (1) The Commission may revoke a distribution licence on its own or an application by the licensee or on receiving any complaint from any person in accordance with the provisions of the Act, and, these Regulations in any of the following circumstances-
- (a). where the conditions and circumstances under which the licence was granted no longer exist;
 - (b). where the Commission concludes, after enquiry, that the licensee has willfully defaulted in carrying out his duties under the Act or the rules or regulations made thereunder or under the terms and conditions of the licence or has failed to comply with the directives of the Commission;

- (c). where the circumstances of the licensee, as perceived by the Commission, indicate that the licensee's financial, managerial and technical capabilities are no longer adequate for fulfilling his duties and discharging obligations under the Act and conditions of the licence.
- (d). where the licensee persistently fails to fulfill his part in maintaining the Standards as specified in Meghalaya State Electricity Regulatory Commission (Standards of Performance of Distribution Licensee) Regulations, Supply Code, Act and other rules and regulations as a result of which the distribution system, the generating units, transmission systems are jeopardized and quality of supply to consumers suffers frequently and the licensee does not take timely corrective action.
- (2) Before a licence is revoked the Commission may order an inquiry under section 128 of the Act, if it considers necessary, by an adjudicating officer appointed by the Commission under section 143 of the Act.
- (3) If the Commission decides to revoke the licence, the Commission shall serve a notice of three months to the licensee and consider any representation made by the licensee before issue of orders revoking the license.
- (4) The Commission shall indicate the effective date from which such revocation shall take effect. The Commission shall also forward a copy of the order of revocation to the State Government, STU, CEA, Local Authority and to such other person/body as the Commission considers it necessary.
- (5) The Commission may, instead of revoking the licence, pass an order allowing the license to continue subject to such terms and conditions under which the licensee shall operate his business in order to enable the licensee to improve his performance.
- (6) When Commission has given notice of revocation of licence and the licensee is willing to relinquish his licence (and does not plan to take remedial and improvement measures and does not request the Commission to drop revocation proposal), the licensee may, after prior approval of the Commission, sell the undertaking of the Licensee to any person / company which is found eligible by the Commission for grant of distribution licence, without prejudice to any proceedings which may be initiated or levy any penalty which it may consider appropriate on the licensee.
- (7) In case of revocation of the licence of the distribution licensee, the Commission shall initiate action as provided in section 20 of the Act for the sale of utility of distribution licensee and to vest it in the purchaser.

22. Establishment of subsidiaries or associated companies by the distribution licensee

- (a) A licensee may establish any subsidiaries or associated companies or engage any other agencies to conduct or carryout any of its functions specified under the Act and the license subject to the condition that any such subsidiary or associated company or agency shall operate under the overall supervision and control of the licensee and the terms and conditions stipulated in the licence. The licensee shall take full responsibility for any action taken by such subsidiary or associated company or agency and be responsible to the Commission.
- (b) The licensee shall, before entrusting any function to such subsidiary or associated company or agency, obtain permission of the Commission in writing;
- (c) The licensee shall file an application with the Commission for obtaining prior permission under Sub-Regulation (b) above, duly furnishing all relevant information as may be necessary. The Commission shall, within forty five (45) days from the date of receipt of application by it, accord permission for such arrangement, subject to such terms and conditions or modifications, as it may consider appropriate or reject the proposal for the reasons to be recorded by it in writing after giving an opportunity to the licensee to put forth his plea.

23. Incidents Reporting

- (1) The licensee shall intimate to the Commission as soon as possible the occurrence of any major incident in his area of supply affecting supply of electricity, within a week, and also submit a report containing full facts which are within the knowledge relating to such incident (s) and the reasons thereto within a fortnight from the date of occurrence of the incident(s).
- (2) The licensee shall also send copies of the detailed reports to all the concerned parties / authorities who are connected with the incident.
- (3) The Commission may, at its discretion, order an enquiry by an independent authority, if it considers necessary, with a direction to the authority to submit its report on the incident in a specified time. All the expenses connected with such enquiry shall be borne by the licensee.
- (4) The decision of the Commission whether an incident is major or minor shall be final.

24. Powers of Distribution Licensee

The Commission may publish an order authorizing the licensee to exercise any power or authority under the Act if it considers necessary.

25. Enforcement of order passed by the Commission

- (1) When the Commission is satisfied that a licensee has failed to comply with any of the conditions of the licence or provisions of the Act or codes or regulations, it may direct an investigation into the affairs of the licensee by an independent authority in accordance with the provisions of section 128 of the Act.
- (2) On receipt of investigation report from the investigating authority, the Commission may give an opportunity to the licensee to make representation on findings contained in the report. After examining the representation of the licensee, the Commission may direct the licensee to take such action in respect of any matter arising out of the report, as the Commission may think fit, duly following the procedure under section 128 of the Act;

26. Amendment of the Distribution Licence

- (1) The Commission may initiate proceedings for amending the conditions of a distribution licence *suo moto* or on an application from the distribution licensee or on receiving complaint or information from any person.
- (c) The application for an amendment of the licence made by the licensee shall be in such form as may be directed by the Commission. Such application shall be accompanied with a statement of the proposed amendment and shall be supported by an affidavit.
- (d) The licensee shall within seven (7) days from the date of submission of the application for amendment, publish a notice in two daily news papers, one in English language and the other in local language, having wide circulation in area of operation of the distribution licensee, giving the following particulars:
 - (1) Brief Details of existing Distribution Licence;
 - (2) Proposed amendments to the existing Distribution Licence; and
 - (3) Brief reasons for seeking the amendment.
 - (4) The names, addresses and other necessary details of the person(s) nominated by the licensee in major cities or towns of area of proposed distribution licence, who can make available for inspection of application and other documents or from whom they can be purchased in person or by post at reasonable charges, not exceeding photocopying charges;
- (e) Where an amendment to a Distribution Licence is proposed by the Commission *suo moto*, the Commission shall publish a notice in two daily newspapers one in English language and the other in local language having wide circulation in the

area of operation of the Distribution Licence sought to be amended, giving the following particulars:

- i. Name of the Distribution Licensee, its address and the area of supply;
- ii. Description of alteration or amendment proposed to be made by the Commission;
- iii. Brief reasons for proposed alteration or amendment;

The Commission shall consider all objections or suggestions to the proposed amendment, received within one month from the date of first publication of notice or rejecting the proposed amendment.

- (5) In case of an application proposing alterations or modifications in respect of area of supply, comprising the whole or any part of any cantonment, aerodrome, forests, dockyard or camp or of any building or place in the occupation of the Government for defence purpose, the Commission shall not make any alterations or modifications except with the consent of the Central Government.

27. Settlement of Disputes and Arbitration

- (i) The Commission shall adjudicate disputes between the licensees or refer any dispute for arbitration on application by any licensee(s).
- (ii) The Commission shall issue notices to all the concerned licensees indicating the details of the dispute(s) and after hearing the parties concerned, the Commission shall pass such order / direction as it may deem necessary.
- (iii) If any licensee is not satisfied with order passed by the Commission, the licensee may make a request to the Commission for appointment of an Arbitrator.
- (iv) On receipt of an application for appointment of an Arbitrator, the Commission shall appoint an Arbitrator under section 86(f) of the Act duly indicating the terms and conditions of such appointment for settlement of the dispute(s).
- (v) The Arbitrator(s), nominated by the Commission, after hearing both the parties shall pass a speaking order giving reasons on all the issues raised in the dispute(s).
- (vi) The Commission, on receipt of the arbitration award shall communicate the award to the concerned parties for filing their views. After considering the views of the concerned parties, the Commission shall pass final orders, as it deems fit.
- (vii) The costs of arbitration shall be borne by the concerned licensees, as may be decided by the Commission.

CHAPTER – 3**DUTIES OF DISTRIBUTION LICENCEE****28. General**

- (1) The duties of a distribution licensee shall be :
 - (i) to develop and maintain an effective, coordinated and an economical distribution system in his area of supply;
 - (ii) to supply electricity in accordance with the provisions contained in the Act and code, rules and regulations made thereunder.
- (2) The distribution licensee shall ensure that the officers and staff under his control observe strictly the provisions contained in the Meghalaya State Electricity Supply Code, issued by the Commission, as amended from time to time.
- (3) Every licensee shall adhere to the standards prescribed by the Commission in standards of performance of Distribution Licensee, Regulations as amended from time to time.
- (4) Every distribution licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to the premises of the applicant within one (1) month from the date of receipt of the application.
- (5) A distribution licensee shall not show undue preference to any person or class of persons or discriminate against any person or class of persons.

In case a distribution licensee fails to supply within the period specified in Standards of Performance for Distribution Licensee Regulation, the licensee shall be liable to pay compensation to the affected consumer as specified by the Commission.

29. Imposing of restrictions on terms for supply of electricity

A distribution licensee may impose restrictions on the persons requiring supply as in the following cases in order to:

- (i) comply with regulations made in accordance with the section 53 of the Act relating to safety and supply of electricity.
- (ii) reduce to the minimum liability of the licensee from economic loss resulting due to negligence of the person to whom electricity is supplied.

30. Recovery of charges

- (a) A distribution licensee shall charge for supply of electricity to any category of consumers only in accordance with the tariff order issued by the Commission and no charges other than that included in the tariff order shall be recovered from the consumer.

- (b) The distribution licensee shall charge a person, requiring supply of electricity, any expenditure in providing meter or electrical line or plant used for the purpose of giving supply, as specified by the Licensee and approved by the Commission.
- (c) If any licensee recovers a charge in excess of that determined by the Commission, the excess amount shall be recoverable by the person who has paid such charge along with interest equivalent to bank rate without prejudice to any other liability incurred by the licensee.

31. Security deposit

- (a) The distribution licensee may insist on payment by any person, who requires supply of electricity under Regulation 27 (4), a security deposit as may be determined by the Commission from time to time.
 - (i) in respect of electricity supply made to such person, or
 - (ii) for providing any electrical line or plant or meter for supplying electricity to such person
- (b) If the person fails to pay such security, the distribution Licensee, if it thinks fit, may refuse to give supply of electricity or to provide the line or plant or meter until the amount claimed is paid
- (c) If the security furnished has become invalid or is insufficient, the licensee shall give notice to the person for payment of the amount, which became due, within thirty days after receipt of such notice, for providing supply of electricity or for providing of such line or plant or meter.
- (d) If the person, referred to in sub – regulation (c) above, fails to pay such specified amount, the distribution licensee shall discontinue supply of electricity, for the period during which such failure continues.
- (e) The distribution licensee shall pay interest on the security deposits, referred to in sub– regulation (a) above, and also refund such security deposit at the request of the consumer as specified by the Commission in the Electricity Supply Code.
- (f) The distribution Licensee shall not insist on payment of security deposit in accordance with sub – regulation (a) (ii) above if the person requiring supply is prepared to take the supply through a prepaid meter.

32. Open access

- (1) The Distribution Licensee shall arrange for non-discriminatory open access to its distribution system to any person in accordance with the Open Access Regulations issued by the Commission.

- (2) When the Commission accords permission to a consumer / person within the area of a distribution licensee to avail supply through open access from a person other than the licensee, the distribution licensee shall be entitled to collect surcharge in addition to the charges of wheeling, as may be determined by the Commission, to meet his fixed costs, on account of his obligation to provide supply.

33. Other business of a Distribution Licensee

A distribution licensee may, with prior permission of the Commission, engage or carry out any other business in addition to the licenced business for optimum utilisation of its assets subject to the following conditions:

- (a) the licenced business shall not in any way be adversely affected
- (b) a portion of the revenue derived from other business, as may be specified by the Commission, be utilized for reducing its wheeling and other charges to be collected from consumers.
- (c) the licensee shall maintain separate account for each of the businesses undertaken to ensure that the distribution business neither subsidizes in any way to other business nor encumbers its assets in any way to support to such other business;

34. Establishment of Consumer Grievance Redressal Forum and Ombudsman

- (a) A distribution licensee, including deemed licensee, within six months from the date of the commencement of licence or from the date specified by the Commission, whichever is earlier, shall establish a Forum for redressal of grievances of consumers in his area in accordance with the guidelines specified by the Commission.
- (b) Any consumer who is aggrieved due to non – redressal of his grievance by the Forum shall make a representation for redressal of his grievance to Electricity Ombudsman, appointed or designated by the Commission from time to time. This regulation is to comply with the conditions of section 42 (5) and (6) of Act.

35. Conduct of business having adverse effect on competition

Every distribution licensee shall not enter into agreement or abuse its dominant position or enter into any combination which is likely to cause an adverse impact on the competition in the distribution of electricity.

36. Bulk Supply

A licensee may engage or affiliate to provide any goods or services to another licensee in connection with the bulk supply business subject to the following conditions:

1. such transaction shall be in accordance with regulations framed by the Commission relating to provision of goods or services or both with respect to bulk supply business
2. The bulk supply business shall not in any way affect the business of the licensee.
3. the licensee shall give fifteen (15) days notice to the Commission before commencement of the proposed arrangement.
4. The licensee shall maintain and keep separate accounts for bulk supply business.

37. Transfer of assets of distribution licensee

- (a) The distribution licensee shall not transfer its utility or any part thereof by sale, lease, exchange or other wise without obtaining approval of the Commission.
- (b) The distribution licensee shall apply to the Commission giving prior notice of its intention to transfer its utility duly disclosing all relevant facts.
- (c) The Commission may seek any information from the licensee, as it may require, to consider the application.
- (d) The Commission may, within 60 days, of filing the application allow such transfer subject to the conditions as it may consider appropriate or reject the application duly recording the reasons thereto after giving notice to the licensee.

CHAPTER – 4

TECHNICAL

38. Procurement of power

- (1) The licensee shall not purchase power from any source without prior approval from the Commission.
- (2) The licensee shall purchase power in an economical and efficient manner under transparent procurement process as approved by the Commission duly following

the guidelines issued by the Commission from time to time relating to the power procurement procedure.

- (3) The Commission shall, before issue of approval under sub-regulation (1) above to the licensee, satisfy itself that the power to be procured is in accordance with the plan approved to meet the demand for supply.
- (4) The restriction imposed in Sub-Regulation (1) above shall not be applicable:
 - (a) to short term purchases [less than six (6) months in duration], provided that the details of such purchases are intimated to the Commission; and
 - (b) to contracts or agreements entered into by the licensee before the commencement of the licence shall be operative till the expiry of such contract or agreement.

39. Compliance with the State Grid Code

The distribution licensee shall comply with the provisions of the State Grid Code issued by the Commission, as amended from time to time, in extending supply to the consumers.

40. Supply Planning

The licensee shall prepare and submit to the Commission an annual plan, for the succeeding five years as per the guidelines issued by it, on forecast of demand for power within the area of supply under the license.

CHAPTER – 5

INVESTMENTS

- 41. The licensee shall comply with the guidelines, directions and orders of the Commission, issued from time to time, in regard to investments to be made in the licenced business in a prudent manner in order to build, maintain and operate an efficient, coordinated and economical distribution system.
- 42. The licensee shall submit investment plans, as a part of the business plan, giving details of the investment schemes to be undertaken during the succeeding five years period for approval of the Commission, duly explaining
 - (i) the need for such investment
 - (ii) the techno economic analysis and environmental aspects of all available alternatives to the proposed investment.
 - (iii) furnish information, documents and other details as required by the Commission

- 43.** The licensee shall not undertake schemes involving major investment not covered under the investment plan approved by the Commission, without its prior approval. The licensee shall, at the end of each quarter of the financial year, furnish to the Commission
- (i) annual investment plan with details of investment schemes to be carried out during the financial year and
 - (ii) the progress made in implementing annual investment plan during financial year including comparison of actual implementation vis-à-vis the plan as approved by the Commission for the period.
- 44.** The licensee shall be entitled to make investment in the licenced business and for the purpose of determination of tariff, the licensee shall satisfy the Commission that the investment was required for the licenced business and that the investment was made in an efficient, prudent and economical manner.
- 45.** (1) The licensee shall submit to the Commission the following information along with the application for its annual aggregate revenue requirement for determination of tariff under section 62 of the Act;
- (a) the highlights of the annual investment plan consisting of schemes approved by the Commission;
 - (b) schemes submitted to the Commission for approval;
 - (c) schemes not requiring prior approval of the Commission planned for ensuing financial year
 - (d) investments made in the financial year in accordance with the approved investment plans under (b) and (c) above
- (2) The Commission shall take into consideration the approval granted by it to the licensee for investments and the action taken by the licensee
- (3) If any unforeseen contingencies require reallocation of funds within the scheme listed in the annual investment plan, the licensee can do so to the extent of upto 10% of the overall investment plan under each scheme or 20% of the approved amount in respect of each item of work specified in the investment plan. The licensee shall give an intimation of such reallocation to the Commission within seven (7) days of making such reallocation.

CHAPTER – 6

REVENUE REQUIREMENT AND TARIFFS

46. Revenue Requirement and Tariffs

- (1) The licensee shall follow the methodology and procedures specified in the Tariff Regulations and orders / directives issued by the Commission from time to time for filing Aggregate Revenue Requirement and the Tariff Petition in respect of supply of electricity to the consumers for a financial year.
- (2) The amount that the licensee is permitted to recover from its Bulk Supply tariffs in a financial year is the amount that the Commission determines in accordance with the financial principles and guidelines issued from time to time.

47. Power of the licensee for taking action for Revenue Realisation, Meter Tampering etc

The licensee shall be entitled to exercise any power or authority to take appropriate action within the provisions of Act, rules and regulations made thereunder in respect of:

- (a) revenue realisation;
- (b) prosecution for theft;
- (c) determining tampering with meters; and
- (d) preventing diversion of electricity

Any failure / negligence to exercise such authority in a situation, where it is necessary to do so, will be construed as a breach of the conditions of licence.

CHAPTER – 7

ACCOUNTS

48. Every licensee shall maintain its accounts, financial year wise, commencing from 1st April of a calendar year and ending on 31st March of the subsequent calendar year in accordance with the guidelines issued from time to time and as per the Companies Act, 1956 (1 of 1956).

49. The licensee shall maintain separate accounts for each business carried out as follows:

- (a) keep such accounting records, showing the revenues, costs, assets, liabilities, reserves etc separately for the licensed business and each of the other business(es).

(b) prepare and submit to the Commission:

- (i) Accounting statements / Annual Accounts, Balance Sheet, Profit & Loss Account, Revenue and Expenditure Statements etc. duly audited.
- (ii) Quarterly interim profit and loss account, cash flow statement and balance sheet together with supporting documents and information, as prescribed by the Commission;
- (iii) Auditor's report, along with a certificate stating whether, in their opinion, the Accounts statements have been prepared in accordance with the directions of the Commission and give a true and fair picture of the revenues, costs, assets, liabilities, reserves etc. relate to the business to which they relate.

- 50.** The licensee shall not change the basis of charge or apportionment or allocation in preparation of the Accounting statements for a financial year from the basis applied for the previous financial year without the permission of the Commission.
- 51.** In case a licensee changes the basis of charge or apportionment or allocation from that adopted for the previous financial year, the licensee shall, if the Commission so desires, in addition to Accounting statements prepared on the changed basis, shall also prepare Accounting statements on the basis which has been applied for the immediate previous financial year.
- 52.** The Licensee shall submit to the Commission copies of the audited accounting statements and the auditor's report by not later than six months after the close of the financial year to which they relate.
- 53.** The licensee shall ensure that the accounting statements in respect of each financial year prepared together with audit report for that financial year are made available to any person requiring them at a price not exceeding reasonable cost of duplicating them.

CHAPTER - 8**MISCELLANEOUS****54. Submission of reports to the Commission**

The Licensee shall submit such reports, information, data as required by the Commission from time to time.

55. Research studies

The licensee shall also undertake such studies, as may be specified by the Commission and / or Central Electricity Authority, for improvement of the distribution business.

56. Savings

Nothing contained in these Regulations shall

- (i) affect the rights and privileges of the Consumers under any other law including the Consumer Protection Act, 1986.
- (ii) restrict the powers of the Commission
 - (a) to issue any directives or orders, as it deems fit, in implementing the provisions of the Act or law as amended from time to time.
 - (b) To deal with any matter or exercise any power under the Act for which regulations are yet to be framed.
 - (c) To adopt any procedure in regard to any of the provisions of these regulations duly recording the reasons thereto in writing.

57. Power to Remove Difficulties

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, direct the Licensee to do things not inconsistent with the provisions of the Act as may be necessary or expedient for the purpose of removing the difficulties.

58. Power to amend regulations

The Commission may *suo moto* or otherwise at any time add, vary, alter, modify or amend any of the provisions of these Regulations, as it may deem fit, subject to the procedure laid down in Regulation 26.

By order of the Meghalaya State Electricity Regulatory Commission

Appendix - 1

APPLICATION FORM FOR GRANT OF DISTRIBUTION LICENCE

[*See Regulation 4(1)*]

PART A : GENERAL INFORMATION OF APPLICANT

1.Details of Applicant

2. Details of Ownership

3.

**PART B : LIST OF DOCUMENTS TO BE SUBMITTED WITH APPLICATION FOR
DISTRIBUTION LICENCE**

1. Documents (attested copies) to be submitted along with the application for licence
 - (a) Information relating to existing licence (if any), with copy of licence
 - (b) Certificate of Incorporation/ Registration.
 - (c) Certificate of commencement of Business.
 - (d) Original Power of Attorney of the Signatory to commit on behalf of the Applicant or its Promoter.
 - (e) Articles of Association, Memorandum of Association and similar constitutional documents.
 - (f) Details of Income Tax PAN/TAN/Income Tax Clearance Certificate.
 - (g) Details of import licence, if any.
2. Data relating to Management and Financial capability
 - (a) Managerial
 - (i) Senior management's curriculum
 - (ii) Cadre strength for different categories (technical and non-technical)
 - (b) Financial
 - (i) Bank references asserting that the Applicant is financially solvent
 - (ii) Annual Audited Reports for the past 5 years of the Applicant
 - (c) Any other documentary evidence to substantiate the financial capabilities, technical competence to handle operation and maintenance of distribution system activities etc of the applicant.
3. Data relating to the Applicant's Proposed Business
 - a. Business Plan (with 5 years projection) for the proposed business for which licence is sought (*this should contain year wise load growth, year wise distribution loss reduction proposal along with specific action plan, metering plan, investment plan, treatment of previous losses, debt restructuring plan, program for rural electrification, cost reduction plan, projected profit and loss account, projected balance sheets, projected cash flow statements and projected important financial parameters*).
 - b. Five year annual forecasts of costs, sales, revenues, project financing and funding arrangements (clearly specifying the assumptions involved)

4. Detailed Map

- (a) Detailed electrical distribution map (including information on substations and configuration of the system) and geographical map for the proposed area of distribution, drawn to scale (scale not less than 10 Cms to one Km or any other scale as may be approved by the Commission).
- (b) The map shall clearly distinguish between the existing system and new facilities that will be required for meeting the obligations under the licence.
- (c) The map shall indicate the streets and roads in the proposed area of distribution in which the electricity is to be distributed.
- (d) A list of all local authorities connected with the administration of the area or any portion of the area of distribution.
- (e) Statement describing any lands, which the Applicant proposes to acquire under the provisions of Land Acquisition Act, 1894 (Act1 of 1894) for the purpose of the licence and the means of such acquisition.

Date

Signature of the Applicant

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT*(This form to be filled in by the Applicant applying for a distribution licence)***1. Previous Experience (Past 5 years details for Related Business)***[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]*

General Information					
Name and Address of the Distribution project(s) developed					
Brief description of project developed					
Cost of the project developed – Rs. Lakhs.					
Name & Address of the Client Company for whom the project was developed					
Name, Designation and Address of Reference person of Client Company					
Details of Distribution managed in last 5 years – Commercial operations	Year 1	Year 2	Year 3	Year 4	Year 5
Assets Transformers (Nos)/Sub-stations/etc					
Lines 220 kV 132 kV 33 kV 11 kV 6.6 kV LT Line (Ckt. Kms) 440 Volts					
Number of Contracts with details Distribution Domestic / State					
Specific details of Projects (Top 5 Projects)	(Name of the Project)	(Name of the Project)	(Name of the Project)	(Name of the Project)	(Name of the Project)
Commencement of Construction –Scheduled Date –Actual Date					

Commissioning –Scheduled Date –Actual Date Commercial Operation –Scheduled Date –Actual Date					
Project Cost –Estimated Cost –Actual Cost on Completion					
Consumer Base (Nos.) –EHT General Purpose –EHT Industrial –HT General Purpose –HT Industrial –LT Industrial –Commercial –Domestic –Agricultural –Street Light –Others					
Quantum of Energy Distributed –Total (Million Units) –Metered Sales (%)					
Quantum of energy billed Total (Million units)					
Revenue Collection –Amount (Rs. Lakhs) –Collection Efficiency (%)					
Financial Information (Rs. lakhs)	Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets –Gross Fixed Assets –Accumulated Depreciation –Net Fixed Assets					
Equity –Promoters' –Government/ Financial –Institutions –Public –Others					
Liabilities –Long Term –Short Term					

Income					
–Sale of Power					
–Others					
Expenses					
–Administration and General Expenses					
–Repairs and Maintenance Expenses					
–Employee Cost					
–Depreciation					
–Interest and Financial Charges					
–Long Term					
–Short Term					
–Others					
Profits and Returns					
–Net Profits					
–Dividend Paid					

2. Details of Proposed Project (Business for which licence is sought)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

- (i) Is the applicant acquiring Existing Assets or Creating New Assets?
(ii) Acquiring of Existing Assets / creation of New Assets

Funding	
Proposed means of Finance	
Equity (Rs. Lakhs)	
–Applicant	
–Co-promoters	
–Others (<i>specify</i>)	
Debt	
–Domestic (Rs. Lakhs)	
–Indian Financial Institutions	
–Commercial Banks	
–Others (<i>specify</i>)	
International (FC Million)	
–Supplier's Credit	
–Direct Borrowing	
–Others (<i>specify</i>)	
Equivalent INR (with Exchange rate used)	
–Others (<i>specify</i>)	
In case of Asset Procurement/ whether Project is proposed to be jointly funded along with External Agency–	
–Name and Address of the Agency, and contact details of the reference person of the Agency (name, address, telephone/fax numbers, email etc.,)	

–Proposed Equity from the Agency (Rs. Lakhs) –Agency's equity as a percentage of total equity (%) –Nature of proposed tie-up between Applicant and the other agency.	
Details of debt proposed for the Asset Procurement/ Project –Details of Lenders (name & address). –Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc. –Whether any guarantee is being sought for the loans from any agency. If Yes, provide details	Yes/ No

(iii) For Applicant creating New Assets

EPC: Whether the Applicant is proposing to employ an EPC Contractor. If Yes, Name, Address and contact details of the same. Proposed Contract Value Foreign Currency Equivalent INR (with Exchange rate used)	Yes/ No
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(iv) For Applicant employing other contractors / Agency

Other contracts	
Whether the Applicant is proposing to employ any Contractor for Operation and Maintenance work. If Yes, Name, Address & contact details of the same. –Period of the Contract –Details of the experience of the O&M contractor in similar Business	Yes/ No

Note :

Consent letters of the other Agency and Contractors to associate with the Applicant for the above project to be enclosed.

Necessary approvals and no objection certificates to be obtained at appropriate time and forwarded to the Commission.

3. Qualifications and Expertise (Personnel)

Name of personnel	Qualification	Specialization	Years of experience	Status in the firm

Note : Atleast one full time professional, having experience in each of the disciplines like Power Systems Operation, Finance should be part of the Core team.

4. Revenue Potential (Business for which licence is sought)

General Information	
(1) In case of acquired assets –Quantum energy distributed during previous financial year(MU) –Expected life of assets acquired (in years) In case of creation of new Assets –Quantum energy distributed during previous financial year on parallel network already existing (MU)	
(2) Consumer Base (Nos.) EHT General Purpose EHT Industrial HT General Purpose HT Industrial LT Industrial Commercial Domestic Agricultural Street Light Others (specify)	
(3) Sale of Electricity Expected Quantum (MU) Anticipated growth in demand (%)	
Commercial Information	
(1) Average Tariff (Rs./ Unit) EHT General Purpose EHT Industrial HT General Purpose HT Industrial LT Industrial Commercial Domestic Street Light Agricultural Others (<i>specify</i>)	
(2) Revenue –Realization (Rs. Lakhs) –Collection Efficiency (%)	
Financial Information	
Capital Base (Rs. Lakhs) Annual Expected Turnover (Rs. Lakhs)	

5. Financial Soundness (Other Subsidiary Business Units)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium
(As

applicable)]

General Information						
Names of Subsidiary Business Units	Products Manufactured/ Services					
1.	1.					
2.	2.					
3.	3.					
4.	4.					
5.	5.					
Financial Indicators	Year 1	Year 1	Year 1	Year 1	Year 1	
–Fixed Assets						
–Gross Fixed Assets						
–Accumulated Depreciation						
–Net Fixed Assets						
Equity						
–Promoters'						
–Government/ Financial Institutions						
–Public						
–Others						
Liabilities						
–Long Term						
–Short Term						
Income						
–Sale of Power						
–Others (<i>specify</i>)						
Expenses						
–Administration and General Expenses						
–Repairs and Maintenance Expenses						
–Employee Cost						
–Depreciation						
–Interest and Financial Charges						
–Long Term						
–Short Term						
–Others (<i>specify</i>)						
Overall Turnover (Rs. Lakhs)						
Profits and Returns (Rs. Lakhs)						
–Net Profits						
–Dividends Paid						
Operating Ratios						
–Return on Equity						
–Return on Capital Employed						
–Return on Net Fixed Assets						
Liquidity Ratio						
–Debt Service Coverage Ratio						
–Current Ratio						

–Quick Ratio	
Capital Adequacy and Credit Worthiness	
–Debt/ Net worth	
–Debt/ Equity	
Turnover Ratio	
–Total Asset Turnover	
–Fixed Asset Turnover	

6. Baseline Information (Business for which licence is sought)

Commercial Information	
Assets	
Transformers (Nos.)	
Lines	
220 kV	
132 kV	
66 kV	
33 kV	
11 kV	
6.6 kV	
LT Line (Ckt. Kms)	
440 Volts	
Commercial Information	
Metering Status	
Metered Consumers (as a percentage of Total Consumers)	
Billing Status	
Billing (as a percentage of Total Input)	
Revenue Realization	
–Revenue Realization per Unit Sale (Rs./ Unit)	
–Collection Efficiency (%)	
Loss	
–Technical Loss (%)	
–Commercial Loss (%)	

Note :

1. Certificates/documents in support of all the credentials detailed above, from the Owner/ Client for whom the projects were promoted should be submitted along with the application.
2. Wherever conversion factor is used (for currency conversion and others), mention the conversion factor used for this purpose.

Place –

Date –

Signature of the Applicant

Appendix- 2

FORMAT AND CONDITIONS OF DISTRIBUTION LICENCE**Licence granted for Distribution of electricity**

[See regulation 12 (5)]

Licence granted by the Meghalaya State Electricity Regulatory Commission under section 14 of the Electricity Act, 2003 (36 of 2003) for carrying on the business of distribution of electrical energy within the area of activity (as specified under 'licensed area of distribution licensee' in the schedule) and shall be subject to the terms and conditions specified herein. The licence shall come into force from

PART - I**DEFINITIONS**

1. Words, terms and expressions to which meanings are assigned in the Electricity Act 2003 (36 of 2003) (hereinafter called the 'Act'), shall have the same meaning in these General Conditions.
2. Unless the context otherwise requires, in these General conditions:
 - (1) **"accounting statements"** means accounting statements for the licensed business comprising of a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto, as specified under the Companies Act, 1956 (Act 1 of 1956) or as the Commission may prescribe from time to time. If the licensee engages in any other business or activity, in addition to the licenced business, the accounting statements shall be separately maintained as per directions of the Commission and show the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) charged from any other business to licenced business or vice versa together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the licensed business and any other business of the licensee together with a description of the basis of such apportionment or allocation.
 - (2) **"Act"** means the Electricity Act, 2003 (Act 36 of 2003)
 - (3) **"annual accounts"** means the accounts of the licensee for a financial year prepared in accordance with the provisions of the Companies Act, 1956 (Act 1 of 1956) and/or in such other manner as may be directed by the Commission in terms of the provisions of the Act;
 - (4) **"Area of distribution"** or **"area of supply"** means the area within which a distribution licensee is authorized by his license to supply electricity;

- (5) “**Auditors**” means the licensee's auditors holding office in accordance with the requirements of sections 224 to 234A or section 619, of the Companies Act 1956 (Act 1 of 1956) as the case may be;
- (6) “**authorized**”, in relation to any person, means a licensee who has been granted a licence under section 14 of the Act or a deemed licensee under the first, third and fifth provisos to section 14 of the Act;
- (7) “**Commission**” means the Meghalaya State Electricity Regulatory Commission (MSERC);
- (8) “**distribution**” means the conveyance of electricity by means of a distribution system;
- (9) “**distribution business**” means authorized business of the licensee in the area specified in the license relating to supplying electricity to the consumer;
- (10) “**distribution licensee**” means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (11) “**distribution system**” means the system of wires and associated facilities between the delivery points of the transmission lines or the generating station connection and the point of connection to the installations of the consumers;
- (12) “**distribution system performance standards**” means the standards of performance as specified in the Meghalaya State Electricity Regulatory Commission's Standards of Performance of Distribution Licensee Regulations, _____ and the Meghalaya State Electricity Supply Code.
- (13) “**franchisee**” means a person authorized by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply;
- (14) “**Force Majeure**” means any event beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that lead to any act that would involve a breach of relevant laws or regulations relating to electricity supply by a licensee;
- (15) “**licence**” means a licence granted under section 14 of the Act;
- (16) “**licensee**” means any person, who has been granted this licence under section 14 of the Act;
- (17) “**licensed business**” means the business of distribution of electricity in the area specified in this licence;
- (18) “**Open Access**” means the non-discriminatory provision for use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Commission;

- (19) “**operational control**” means possessing of authority to make operational decisions such as commissioning and utilisation of sub stations, Transformers, service lines and other equipments;
- (20) “**other business**” means any business of the licensee other than the licensed business for optimum utilisation of its assets;
- (21) “**person**” shall include any company or body corporate or association or body of individuals, whether incorporated or not or artificial judicial person;
- (22) “**sub-station**” means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cables and other appurtenant equipment and buildings used for that purpose and the site there of;
- (23) “**supply**” in relation to electricity means the sale of electricity to a licensee or consumer;
- (24) “**Meghalaya State Electricity Supply Code**” means the Code approved by the Commission under section 50 of the Act detailing the procedure for supply of electricity, collection of charges etc;
- (25) “**transfer**” shall include the sale, exchange, gift, lease, licence, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession or any other disposition;
- (26) “**use of system**” means use of the distribution system for the transportation and wheeling of electricity for any person pursuant to a contract entered into with the distribution licensee.
- (27) “**user**” means anyone who uses the distribution system.
- (28) “**wheeling**” means the operation whereby the distribution system and associated facilities of a distribution licensee, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62 of the Act;

PART – II**GENERAL CONDITIONS****3. TERM OF THE LICENCE**

The distribution licence shall come into force on a date specified by the Commission in its order granting such licence and shall remain in force for Twenty five (25) years from that date unless revoked earlier in accordance with the provisions of section 19 of the Act,

4. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- (1) The distribution licensee shall comply with the provisions of the Act, rules, regulations and orders and directions issued by the Commission from time to time.
- (2) The distribution licensee shall act in accordance with the general and / or special conditions specified in the licence except where the licensee is exempted specifically or permitted by the Commission for any deviation from these guidelines through a separate order.
- (3) The distribution licensee shall comply with the orders and directions issued by the State Load Despatch Centre and other statutory authorities in the discharge of their functions.
- (4) The distribution licensee shall adhere to the Standards of Performance Regulations, the Electricity Supply Code, Grid Code etc. approved by the Commission in regard to supply of electricity in his area.

5. DUTIES OF THE DISTRIBUTION LICENSEE

- (1) The distribution licensee shall duly discharge the duties of the distribution licensee as provided under sections 42 and 43 of the Act and specified in these Regulations.
- (2) The distribution licensee shall develop and maintain an efficient, coordinated and economical distribution system in the specified area of distribution and effect supply of electricity to Consumers in such area in accordance with the provisions of the Act, rules, regulations, orders and directions of the Commission.
- (3) The distribution licensee shall be entitled to:
 - (a) purchase, import or otherwise avail electricity from a generating company, trader and from such other sources and persons with whom the distribution licensee has agreements or arrangements in accordance with the terms and conditions as approved by the Commission;

- (b) purchase from renewable sources of energy connected to its distribution system such quantum as may be stipulated by the Commission under section 86 (1) (e) of the Act.
 - (c) supply electricity within its area of supply to consumers requiring supply of electricity either directly or through open access in accordance with regulations made by the Commission. The licensee, with respect to open access supply, shall be a common carrier providing non-discriminatory open access and subject to operational constraints of the distribution system and collect wheeling and other charges as determined by the Commission from time to time.
- (4) The distribution licensee shall not, without the general or special approval of the Commission:
- (a) Sell or supply electricity to any person in accordance with the terms and conditions as specified in this license or by the Commission from time to time approved by the Commission; or
 - (b) provide wheeling services to third parties for transportation of electricity through the licensee's distribution system or permit a consumer or class of consumers to receive electricity supply from a person or another licensee of his area of supply; or
 - (c) The licensee shall not, except with the prior permission of the Commission
 - (i) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee within the State; or
 - (ii) merge his utility with the utility of any other licensee or his own elsewhere within the State; or
 - (iii) assign his licence or transfer his utility or part thereof to any person by lease, exchange or otherwise.
- (5) The licensee shall not extend any new provision of services to any other licensee or for the conveyance of electricity through its distribution system, without informing the Commission seven days prior to the commencement of such services. In case immediate remedial action is required in the interest of continuity of supply to the persons other than the consumers, the licensee may commence the activity, provided that the licensee informs the Commission of such occurrence or circumstances within seven days thereof.
- (6) The distribution licensee shall purchase the energy required for meeting its obligations under its licence in an economical manner and under a transparent or procurement process and in accordance with the regulations, guidelines,

directions issued by the Commission from time to time. In case of a shortage of electricity supply, the Commission shall fix the maximum and minimum ceiling of tariff for sale or purchase of electricity for such period of shortage.

(7) In the event the distribution licensee engages in any other business, the same shall be subject to the following conditions:

- (a) due intimation is to be given to the Commission about the other business which the licensee intends to take-up;
- (b) the licensed business and the conduct thereof by the licensee shall not be prejudicial and/or adversely affect in any manner the licensed business by reason of such other business;
- (c) at least 50% of its profits, earned out of such other business, shall be utilized for reducing the charges for wheeling;
- (d) the licensee shall not utilize its funds in any way for such other business nor create encumbrance on its distribution assets in any way to support such other business; and
- (e) the distribution licensee shall be entitled to let its equipments/ materials in its possession on hire or lease provided such arrangement results in optimum utilisation and gainful employment of its assets. The licensee shall be entitled to sell or dispose off scrap/ unserviceable/ obsolete materials/ equipments. The earnings from such activities shall be recognized in the annual revenue requirement petition to be filed by the licensee with the Commission.

(8) The distribution licensee shall seek approval of the Commission before making any loans to, or issuing any guarantee for any obligation of any person, except for the purposes of the licensed business. The loans and advances to employees pursuant to their terms and conditions of services in the ordinary course of business shall be excluded from the requirement to seek such approval.

(9) The distribution licensee may establish subsidiaries or agents or enter into contracts to conduct or carry out any of the functions, which such licensee is authorized to conduct or carry out under the Act and this licence.

Provided always that:

- (a) any such subsidiary or agents or contractors or agents shall operate under the overall supervision and control of the licensee and within the scope of the terms and conditions of this licence;
- (b) the licensee shall , prior to entrusting any function to any such subsidiary or agents or contractor, intimate the Commission for concurrence or approval, subject to such conditions as the Commission may stipulate.

- (c) The distribution licensee shall take full responsibility for all actions of the subsidiaries or agents or contractors and the Commission may require the licensee to terminate the arrangements in case their performance is not to its satisfaction.
- (10) In case where prior approval of the Commission is required, the distribution licensee shall file an application with the Commission disclosing all the relevant facts relating to the matter. The Commission may, within thirty days of the filing of the application, seek further information in support of the application. The Commission shall allow the arrangement subject to such terms and conditions or modifications as it considers appropriate or reject the same, for reasons recorded in writing in the order to be issued by the Commission.

6. ACCOUNTS

- (1) Unless otherwise permitted by the Commission, the financial year of the distribution licensee for the licenced business shall be from the first of April of a calendar year to thirty-first of March of the subsequent calendar year.
- (2) The distribution licensee shall, in respect of the licensed business and / or any other business:
 - (a) keep such accounting records as would be required to be kept in respect of each such business so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to the licensed business are separately identifiable in the books of the licensee, from those of other business in which the licensee may be engaged;
 - (b) prepare on a consistent basis from such accounting records and submit to the Commission
 - (i) the accounting statements in accordance with the provisions of the Companies Act, 1956 and accounting standards or regulations or directions issued by the Commission;
 - (ii) in respect of the first six months of each financial year, a half yearly profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time;
 - (iii) in respect of the accounting statements prepared , an auditor's report shall be enclosed for each financial year, certifying that, the statements have been properly prepared in accordance with this clause (i) and give a true and fair view of the revenues, costs, assets, liabilities, reserves

and provisions of, or reasonably attributable to such businesses to which the statements relate;

- (iv) a copy of each half yearly profit and loss account not later than one month after the end of the period to which it relates, and copies of the accounting statements and auditor's report not later than six months after the end of the financial year to which they relate.

- (3) Any person authorized by the Commission shall be entitled to inspect and verify the accounts of the distribution licensee and the licensee shall render all necessary assistance to such person.
- (4) The distribution licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses in relation to the preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. The basis of charge or apportionment of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956 (Act1 of 1956) or the respective Acts under which the licensee will be governed, the accounting standards or rules and also any guidelines issued by the Commission in this regard.
- (5) Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the licensee shall, if directed by the Commission, prepare such accounting statements on the basis which it applied in respect of the immediately preceding financial year and in addition prepare the accounting statements on the basis actually applied by it.
- (6) Accounting statements under sub-clause (2) shall, unless otherwise approved or directed by the Commission:
 - (a) be prepared and published with the annual accounts of the distribution licensee as directed by the Commission;
 - (b) state the accounting policies adopted;
 - (c) prepare in the format as the Commission may stipulate from time to time;
- (7) The distribution licensee shall ensure that the accounting statements in respect of each financial year prepared under clause (2) and the auditor's report in respect of each financial year are made available to any person on request at a price not exceeding the reasonable cost of duplicating them.
- (8) In order to meet the requirement of open access, the accounting statements shall be maintained separately for capital expenditure and revenue expenditure to

enable the segregation of common services by suitably allocating the same as per the formula approved by the Commission.

7. FURNISHING OF INFORMATION TO THE COMMISSION

- (1) The distribution licensee shall furnish to the Commission, as directed from time to time, such information, documents and details related to the licensed business or any other business of the licensee engaged for optimum utilisation of the assets of the licensed business for its own purposes or for the purposes of the Government of India, State Government, the Central Commission, and/or the Central Electricity Authority, the State Transmission Utility and State Load Dispatch Centre.
- (2) The distribution licensee shall furnish periodical reports on the implementation of the standards of performance as specified in the Standards of Performance of Distribution Licensee Regulations, notified by the Commission and as amended from time to time, on the dates specified by the Commission.
- (3) The distribution licensee on occurrence of any major incident or accident shall notify the Commission about such occurrence as provided in Electricity Supply Code, and Standards of Performance of Distribution Licensee Regulations notified by the Commission.
- (4) The distribution licensee shall duly inform the Commission about any incident, that restricts from meeting its obligations under its licence, including any act of omission or commission by others and the steps taken by the licensee to mitigate the effect of such incident.
- (5) The distribution licensee shall submit a business plan, as required under the MSERC (Terms and Conditions for Determination of Tariff) Regulations - 2010, within three months from the date of this licence and shall update such plan annually.
- (6) The Commission may require the licensee to intimate before the end of first quarter of each financial year the progress made in implementing the business plan of the previous financial year with the comparison of actual implementation vis-à-vis the plan as approved by the Commission
- (7) The distribution licensee shall also undertake such studies as the Commission may direct it to undertake from time to time for the improvement of its distribution business and any other matter concerning the distribution business.

8. INVESTMENT

The licensee shall comply with the provisions of Regulations 41 to 45 of these regulations relating to Investment Plan and as directed by the Commission from time to time.

9. PAYMENT OF LICENCE FEES

- (1) Within thirty days or such further period as the Commission may allow after the date of commencement of the licence, the licensee shall pay to the Commission an initial license fee as may be determined by the Commission, on a pro-rata basis for the balance period of the year and for the subsequent financial year(s), as long as this Licence remains in force an annual Licence fee as specified by the Commission by 15th April each year.
- (2) The Commission may, from time to time revise the annual licence fee payable by the licensee. The Commission may publish a notice determining the annual licence fee payable by such licensee in each financial year or revise the relevant Regulations as the case may be.
- (3) Where the distribution licensee fails to pay to the Commission any of the fees due under sub-clauses (1) or (2) by the due dates:
 - (a) without prejudice to other obligations, the distribution licensee shall be liable to pay interest on the outstanding amount at a simple interest rate as specified by the Commission, the interest being payable for the period beginning on the day after which the amount became due, and ending on the day on which the payment is made to the Commission in cleared funds; and
 - (b) in the event of continued default by the distribution licensee, the Commission may revoke this licence pursuant to section 19 of the Act and regulation 21 of these regulations.
- (4) The distribution licensee shall be entitled to take into account any fee paid by it under this clause as an expense in the determination of aggregate revenues to be charged to the tariffs, but shall not take into account any interest paid pursuant to sub-clause (3) above.

10. AMENDMENT OF LICENCE CONDITIONS

The Commission may alter or amend any terms and conditions of at any time in public interest in exercise of powers under section 18 of the Act as under:

- (a) where the licensee has made an application under sub-section (1) of section 18, of the Act proposing any alteration or modifications to the terms and

conditions of licence, the licensee shall publish a notice of such application with such particulars and in such manner as specified in Regulation 26 of these regulations;

- (b) in the case of an application proposing alterations or modifications in the area of activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission shall make any alterations or modifications only after obtaining prior approval with the consent of the Central Government;
- (c) the Commission shall not make any alterations or modification unless all suggestions or objections received within thirty days from the date of publication of the notice have been considered.

11. SETTLEMENT OF DISPUTES

The provisions contained in Regulation 27 of these regulations shall apply to any dispute between the distribution licensee and any generating company and or between a consumer and a distribution licensee shall be settled in accordance with the provisions contained in the said Regulation.

12. COMPLIANCE WITH THE GRID CODE BY THE DISTRIBUTION LICENSEE

The distribution licensee shall ensure due compliance with the Meghalaya State Electricity Grid Code approved by the Commission under clause (h) sub section (1) of section 86 of the Act.

13. COMPLIANCE WITH THE ELECTRICITY SUPPLY CODE AND DISTRIBUTION CODE BY THE DISTRIBUTION LICENSEE

The distribution licensee shall ensure due compliance with the Meghalaya State Electricity Supply Code in force as amended from time to time.

14. CONSUMER SERVICE

- (1) The distribution licensee shall duly comply with the provisions, as amended from time to time, in regard to consumer services in the Meghalaya State Electricity Supply Code and Standards of Performance of Distribution Licensee Regulations.

(2) Payment of Bills

The procedures regarding billing and payment of electricity charges outlined in Meghalaya State Electricity Supply code and Standards of Performance of Distribution Licensee Regulations shall be followed both by the licensees and the consumers.

(3) Complaint Handling Procedure

The distribution licensee shall establish a forum and ombudsman called Consumer Grievance Redressal Mechanism for redressal of grievances of the consumers in accordance with the Regulation 34 of these regulations, as required under section 42(5) of the Act.

(4) Consumer Rights Statement

- (a) The distribution licensee shall, within a reasonable period of time after the commencement of the licence or such other time as the Commission may allow, prepare and submit to the Commission for approval, a consumer rights statement, explaining to consumers their rights as Consumers serviced by such licensee. The Commission may, upon holding such consultation with such other persons or bodies of persons who the Commission considers as representing the interests of consumers likely to be affected by it, make such modifications in the statement, as it considers necessary in public interest.
- (b) The distribution licensee shall submit a proposal for any revision of the consumer rights statement to the Commission for its approval, including any representation received by such licensee and not accepted by it. The Commission may modify the existing consumer rights statement, as it considers necessary.
- (c) The distribution licensee shall:
 - (i) draw the attention of consumers, in such manner as the Commission may direct to the existence of the consumer rights statement and its revision from time to time.
 - (ii) make a copy of its consumer rights statement, as revised from time to time, available for inspection by members of the public at its offices during normal working hours; and
 - (iii) provide to all new consumers to be served by it, and to any other person who requests, a copy of the consumer rights statement, as revised from time to time, at a price not exceeding the reasonable cost of duplicating it.

(5) The distribution licensee shall duly comply with the standards as the Commission may specify from time to time, in performing its duties under the Act.

15. DISTRIBUTION SYSTEM PLANNING AND SECURITY STANDARDS, DISTRIBUTION SYSTEM OPERATING STANDARDS

The Distribution licensee shall comply with the provisions outlined in Meghalaya State Electricity Supply Code.

16. DUTY TO SUPPLY

The Distribution licensee shall comply with the provisions outlined in Regulation 28 of these regulations.

17. POWERS TO RECOVER OF CHARGES, SECURITY etc.

The Distribution licensee shall comply with the provisions outlined in Regulations 30 and 31 of these regulations

18. USE OF METERS

The distribution licensee shall comply with the requirements of the Act and the regulations, directions and orders of the Commission in regard to supply of electricity through meter provided in accordance with the "Installation and Operation of the Meter Regulations notified by the Central Electricity Authority under section 55 of the Act.

19. PROVISION OF SUBSIDIES TO CERTAIN CONSUMERS

The distribution licensee shall be guided by the provisions as per MSERC (Terms and Conditions for Determination of Tariff) Regulations, 2007.

20. POWERS OF THE LICENSEE FOR REVENUE REALISATION, PREVENTION OF METER TAMPERING, Etc.

The distribution licensee shall act as per the provisions Meghalaya State Electricity Supply Code.

21. POWER TO ENTER PREMISES AND TO REMOVE FITTINGS OR OTHER APPARATUS OF LICENSEE

The distribution licensee shall act as per the provisions of the Meghalaya State Electricity Supply Code.

22. THEFT OF ELECTRICITY, LINES, MATERIALS, INTERFERENCE WITH WORKS, etc.

The distribution licensee shall act as per the provisions of Meghalaya State Electricity Supply Code.

24. DISCONNECTIONS AND OTHER ACTIONS

The distribution licensee shall act as per the provisions of Meghalaya State Electricity Supply Code.

25. INTRODUCTION OF COMPETITION IN SUPPLY

(1) In accordance with section 14 of the Act, the Commission may, grant a licence to two or more persons for distribution of within the same area of supply subject to the condition that the applicant meets the eligibility norms as specified under sixth proviso under section 15 of the Act. No applicant who complies with all the requirements for grant of licence shall be refused licence on the ground that there already exists a licensee in the same area for the same purpose.

(2) As and when permitted by the Commission a consumer or a class of consumers can avail electricity from a person other than the licensee of his area of supply. In such a case the duties of the licensee shall be that of a "common carrier" providing non-discriminatory open access and the charges payable will be, determined by the Commission.

(3) The Commission may fix only the maximum ceiling of tariff for retail sale of electricity in an area of supply having two or more distribution licensees.

25. APPLICATION OF THE GENERAL CONDITIONS TO DEEMED LICENSEES

The conditions as set out herein above are applicable to any person or Agency who is a deemed licensee under section 14 of the Act.

J. B. POON,
Secretary,
Meghalaya State Electricity Regulatory Commission,
Shillong.



The Gazette of Meghalaya

EXTRAORDINARY

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PART II-A

GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th February, 2011.

No.MSERC/Trad-Lic/07/2011/01.-The following draft of the Meghalaya State Electricity Regulatory Commission (Grant of Licenses for Trading in Electricity) Regulations, 2011 which the Commission proposes to make in exercise to the powers conferred under subsections (1) and (2) of section 181 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) of section 181 and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(GRANT OF LICENSES FOR TRADING IN ELECTRICITY)
REGULATIONS, 2011.

(_____ of 2011)

Chapter – 1

Preliminary

1. Short title and commencement

- (1) These regulations shall be called the Meghalaya State Electricity Regulatory Commission (Electricity Trading Licence) Regulations, 2011.
- (2) These regulations shall be applicable throughout the State of Meghalaya
- (3) These regulations shall come into force from the date of publication in the Official Gazette of the State.

2. Definitions

In these regulations, unless the context otherwise requires,

- (i) **“Act”** means the Electricity Act, 2003 (36 of 2003).
- (ii) **“Appellate Tribunal”** means the Appellate Tribunal constituted under section 110 of the Act to hear appeals against the orders of the adjudicating officer or the Commission.
- (iii) **‘Area of activity’** means trading in electricity in the State of Meghalaya.
- (iv) **“Agreement”** means a contract entered into by the trader with seller of electricity, buyer of electricity or any other licensee which enables trading in electricity to take place.
- (v) **“Annual Accounts”** means annual accounts of the licensee prepared in accordance with the provisions of the Companies Act 1956 (1 of 1956) from time to time as amended or in such manner as the Commission may direct from time to time.
- (vi) **“Applicant”** means a person who has made an application to the Commission for grant of license for trading in electricity under section 15 of the Act.
- (vii) **“Commission”** means the Meghalaya State Electricity Regulatory Commission (MSERC).
- (viii) **“Customer”** means any person purchasing electricity from a trading licensee.
- (ix) **“Deemed licensee”** means a person as defined under first, third and fifth proviso under section 14 of the Act.
- (x) **“Distribution”** means the conveyance or wheeling of electricity by means of a distribution system.
- (xi) **“Force Majeure”** means any event beyond the reasonable control of the licensee, including but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion etc, the

occurrence of which leads to or involves breach of law or regulations or rules by the licensee.

- (xii) **“Grid Code”** the State Grid Code, specified by the Commission under sub-section (1) (h) of section 86 of the Act covering all technical aspects relating to connections to the operation of the grid.
- (xiii) **“Intra State Trading”** means trading in electricity within the state of Meghalaya.
- (xiv) **“Licence”** means a license granted under section 14 of the Act, by the Commission to a person for trading in electricity.
- (xv) **“Other business”** means any business of the trader other than the licensed business.
- (xvi) **“State”** means State of Meghalaya
- (xvii) **“Trading”** means purchase of electricity for resale thereof and the word ‘trade’ shall be construed accordingly.
- (xviii) **“Trading Licensee”** means a person to whom a licence has been granted for trading in electricity under section 14 of the Act by the Commission and includes a deemed licensee.

The words and expressions used in these regulations but not defined herein shall have same meaning as assigned to them under the Act.

Chapter – 2

General

3. Grant of license

The Commission shall grant a license to any person who undertakes trading in electricity on an application filed by him under section 15 of the Act for such a period as the Commission deems fit based on merits of each case.

4. Procedure for grant of a license

- (1) Every person who desires to trade in electricity shall make an application as in Annexure I or in such a manner as may be specified by the Commission along with the fee specified by the Commission.
- (2) Any person who makes an application under sub regulation (1) for grant of a trading license shall publish a notice of such application within seven days after making such application with such particulars and in such manner as may be specified by the Commission.
 - (a) publish a notice in two daily news papers one in English and another in local language, indicating the name and address of the person to whom it proposes to

issue a trading license to enable interested persons to file objections or suggestions within 30 days from the date of publication.

- (b) No license shall be granted until the objections, if any, received in response to the notice are considered or disposed of by the Commission.

The Commission may also obtain the comments of the applicant, if considered necessary, on the objections or suggestions received.

- (3) The Commission may, on scrutiny of the application, require the applicant to furnish within a specified date, any additional information or documents as it may consider necessary for processing the applicant's case.
- (4) The Commission shall, as far as possible, within 90 (ninety) days, after receipt of the application:
- (i) issue of a license, as in Annexure II, subject to the provisions of the Act, as amended from time to time; or
 - (ii) reject the application for the reasons to be recorded in writing, if such application is not in accordance with the procedure stipulated by it and after giving the applicant an opportunity of hearing him.
- (5) The Commission shall also, immediately, after issue of the license, forward a copy of the license to the State Government, local authority and to such other authority or person as it may consider appropriate.
- (6) The period of the license shall be twenty-five years unless it is revoked by the Commission earlier.

5. Conditions for grant of license

The Commission may specify any general or specific conditions, as it may be deemed necessary, which shall be the conditions of such license, which are to be complied with by the trader.

6. Qualifications of an Electricity Trader

(a) Technical

The applicant shall fulfill the following:

- (1) shall have experts and skilled staff with requisite qualification and experience in
 - (i) power system (ii) finance and commerce.
- (2) adequate space for office, communication facilities like telephone, fax, computer, internet etc.
- (3) own website to post all required information relating to his business.

- (4) shall submit along with his application the following information to assess his capabilities in respect of his resources deployed in the trading business to the Commission.
- (i) the number of experts, summary of their qualifications, experience and knowledge in electricity industry, marketing, their understanding of the operation of the system and commercial functions, number of years of experience etc.
 - (ii) number of key staff working, their qualifications (academic and technical), experience and skills.
 - (iii) details of office accommodation, communication facilities available including website; and
 - (iv) copies of relevant documents in respect of above.
- (5) The applicant shall satisfy the Commission that the technical capacities and resources are sufficient to manage the trading activities entrusted.
- (6) Before granting intra-state trading license, the Commission shall satisfy itself that the applicant is competent to discharge the duties and functions stipulated in the Act, rules and regulations made thereunder.

(b) Financial requirements to be fulfilled by the trader:

- (1) Every applicant shall submit to the Commission the following along with his application in respect of his financial status:
- (i) details of his earnings and history
 - (ii) balance sheet
 - (iii) profit and loss account
 - (iv) cash flow statement
 - (v) funding arrangements
 - (vi) risk management strategy to establish that he is capable of meeting the net worth requirement as indicated in item (2) below:

Before granting the license, the Commission shall satisfy itself that the applicant has fulfilled all the above requirements.

- (2) The net worth requirement of the electricity trader / applicant shall at any time be not less than the following financial limits:

Category of the trading license	Annual volume of the trader	Annual licence fee
A	Upto 50MU	Rs. 50,000
B	Above 50MU and upto 100 MU	Rs. 75,000
C	Above 100MU and upto 200 MU	Rs. 1.00 lakh
D	Above 200MU and upto 300 MU	Rs. 1.50 lakhs
E	Above 300MU and upto 400 MU	Rs. 21.00 lakhs
F	Above 400MU and upto 500 MU	Rs. 2.50 lakhs
G	Above 500MU	Rs. 3.00 lakhs

Note: The above limits are subject to the following conditions:

- (i) The licensee shall increase his net-worth corresponding to the increase in the volume of trade from a lower limit to the next higher limit.
 - (ii) The change in the category shall be based on the volume of trade as on 31st March each year.
 - (iii) The licensee shall keep the Commission informed of his moving from one category to another and the consequential changes in the net worth.
- (3) The applicant shall declare to the Commission:
- (i) the maximum trade volume which he can handle in a month and his future plans of trading during the initial period of three years.
 - (ii) the capital adequacy and net-worth maintained which is sufficient to cover the maximum trade volume together, with documentary evidence, over an average settlement period of one month (30 days) worth credit as an electricity trader subject to the limits specified in sub-regulation (2) above.
 - (iii) endeavor to maintain investment grade credit rating duly certified by an independent credit testing agency to the effect.
 - (iv) the capital adequacy shall be based on:
 - (1) the quantum of trade specified in the license
 - (2) pool rate of the power handled by the trader including company expenses
 - (3) cover trade risks on account of default in payment and change in price adjustability on a six monthly basis with corresponding adjustments in the equity of the trader over and above the initial limit of capital adequacy approved by the Commission
 - (c) The credit worthiness of the licensee shall correspond to the percentage of trade default in relation to the capital adequacy for three settlement periods. The Commission shall review and revise the credit worthiness every six months along with the revision in capital adequacy as deemed fit.

7. Date of commencement of the license

The Commission shall specify the date of commencement of the license in the license itself.

8. Compliance with Acts, Rules, Regulations etc

- (1) The trading licensee shall comply with the provisions of the Act, rules and regulations made thereunder, orders and directions of the Commission issued from time to time and the provisions of any law applicable to the electricity industry.

- (2) The trading licensee shall comply with regulations on phasing of open access in electricity distribution, standards of performance, grid code, supply code etc specified by the Commission.
- (3) The trading licensee shall also comply with all the directions issued by the State Load Despatch Centre from time to time.

9. Furnishing of information by the trading licensee

The licensee (including a deemed licensee) shall furnish to the Commission:

- (i) such information as may be specified to monitor the trader's performance, compliance with terms and conditions of the license, legislative or regulatory requirements etc and
- (ii) The trading licensee shall furnish to the Commission, as and when required or directed any information, documents and details relating to his business or any other business for the purpose of the Commission, Government of India, State Government, State Transmission Utility, the State Load Despatch Centre, the Central Commission and / or the Central Electricity authority.
- (iii) information as directed by the Commission under section 128 of the Act.
- (iv) on any incident which will restrict it in meeting its obligation under the license granted to it, including any act of omission or commission by others and the steps taken by the licensee to reduce the effect of such incident.
- (v) report on the occurrence of any other incident which materially affects any part of trading activities, within one month from the date of occurrence of such incident along with:
 - (a) giving full details of the facts within the knowledge of the licensee regarding the incident and its causes;
 - (b) in case of any delay, the reasons for such delay
 - (c) furnishing of copies of all documents etc when major incident occurs and also as the Commission may direct
- (vi) submit a business plan, after the license coming into force or within such period as the Commission may direct, and thereafter update the plan annually, covering the following, among others:
 - year wise turnover
 - projected profit and loss account
 - projected balance sheets
 - projected cash flow statements
 - any other important financial parameters

- (vii) furnish to the Commission, State Transmission Utility, SLD or any other authority all data, trading business plan etc as may be required in respect of his trading business.

10. License fee

- (1) Every trading licensee shall pay an initial / annual license fee, as may be fixed by the Commission, from time to time in the manner specified on due date.
- (2) If the licensee fails to pay the license fee within the specified date, the licensee shall be liable to pay the Commission, an interest, as specified, on the outstanding amount at the rate of on the amount due or part thereof for the period from the day on which amount falls due and ending on the day the payment is made.
- (3) The licensee shall be entitled to take into account any fee paid by him in accordance with sub-regulation (1) above for determination of aggregate revenue excluding the interest, if any, paid as per sub-regulation (2) above.

11. Trading margin

The Commission shall fix the trading margin for the trading licensee under section 86 (1) (i) of the Act.

12. Amendment, modification, alteration etc., to the license

- (1) The Commission may, *suo moto* or otherwise, amend, modify or alter the conditions laid down in the licence of the trader.
- (2) If the licensee proposes an amendment, modification or alteration, it shall be made through an application to the Commission, in the form specified by the Commission, duly accompanied by a statement of the proposed amendment, modification etc, together with any fee specified by the Commission.
- (3) The licensee shall, within seven days from the date of filing the application with the Commission, (i) publish a notice giving brief statement of the amendment, modification(s) etc proposed, the reasons therefore, this effect in the discharge of the functions of the licensee and such other information as may be directed by the Commission. (ii) the licensee shall make available copies of the application together with all relevant details to the public in the manner specified by the Commission.
- (4) In case the Commission proposes to amend, modify or alter, *suo moto*, it shall also follow the procedure in clause (3) above

13. Duties and obligation of electricity trading licensee

- (1) The licensee shall perform all such duties and obligations, purchase and sale of electricity as may be specified by the Commission.

- (2) The licensee shall enter into agreements for purchase and sale of electricity and make all arrangements required for the proper discharge of his obligations under the license, including all safeguards in regards to supply, payment for electricity traded etc.
- (3) The licensee shall enter into agreements with the transmission / distribution licensee, as the case may be, for conveyance of electricity unless his customer or supplier made such an arrangement. Any such arrangement shall comply with the directions of the Commission issued from time to time.
- (4) The licensee shall be responsible to the Commission, customers and other concerned in the matter of supply electricity notwithstanding any default by the distribution licensee
- (5) (i) The trading licensee shall not, without prior permission of the Commission;
 - (a) undertake transmission of electricity to any person,
 - (b) undertake any transaction to acquire by purchase or takeover or otherwise the utility of another licensee,
 - (c) acquire any beneficial interest in any generating company or generating station, or,
 - (d) engage in the business of electricity distribution,
 - (e) take loans or issue any guarantee for any obligation to any person, except in connection with the licensed business,
 - (f) transfer or assign his utility or license or part thereof through sale, lease, exchange or other wise,
 - (g) merge his utility with utility of any other licensee
- (6) (i) Before obtaining approval of the Commission under items (a) and (g), the licensee applying for such approval shall give a notice of not less than one month to every other licensee, who distributes electricity in the area of such licensee,
 - (ii) Where such permission is required, the licensee shall file an application with Commission, duly furnishing all required information for its consideration.
 - (iii) The Commission, within 30 days of receipt of the application from the licensee, shall either accord permission or reject the application, as it deem necessary. The applicant shall be informed of the reasons for such rejection to the applicant before issue of orders.

14. Trading margin and expected revenue calculation

- (1) The licensee shall calculate the expected revenues from the charges, which it is permitted to recover as a trading margin in accordance the provisions of the Act, the

terms and conditions of the license and other guidelines, orders and directions issued by the Commission from time to time.

- (2) The licensee shall file the expected revenue calculations in the manner specified, by the Commission from time to time.
- (3) The licensee shall, not later than 30th November every year, submit to the Commission a statement containing full details of its expected aggregate revenues and cost of service for the ensuing financial year in respect of the licensed business based on the trading margin approved by the Commission.

15. Contravention of terms and conditions of licence

The Commission may pass such orders, as it may deem necessary, if there is any contravention or likelihood of contravention of the terms and conditions of the licensee.

16. Issue of orders, directions etc.

Subject to the provisions of the Act, rules / regulations made thereunder, the Commission may, from time to time, issue orders or directions in regard to implementation of these regulations and procedures to be followed by the licensee on any matter, as it deems fit.

17. Investigation on failure to comply with terms and conditions by the licensee

- (1) Where the Commission is satisfied that a licensee has failed to comply with any or all the terms and conditions of the license or the provisions of the act, rules, codes or regulations, it may order investigation into the affairs of the licensee under section 128 of the Act.
- (2) On receipt of the investigation report, the Commission shall give an opportunity to the licensee to make a representation on the findings contained in the report. After examining the representation, the Commission may direct the licensee to take such action as may be necessary or revoke the license.
- (3) The Commission, while giving direction under sub-section (2) above, the Commission shall adhere to the procedure laid down under section 130 of the Act.

18. Interpretation

All matters requiring interpretation of these regulations shall be decided by the Commission only and the decision of the Commission shall be final. In case any person is aggrieved by the decision of the Commission, he may go in appeal to the Appellate Tribunal under section 111 of the Act.

19. Removal of difficulties

If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, direct the licensee to take action as it may consider appropriate or necessary.

20. Safety in electricity supply

The licensee shall take precautionary measures to:

- (1) protect the customers or public from damage or use of electricity supplied including installations, maintenance of plant etc.
- (2) eliminate or reduce risks of personal injury to any person or damage to property of any person or interference with use of such property.
- (3) prohibit supply by means of a system which does not conform to the specifications as may be specified.
- (4) give intimation in the specified form to the Commission and the Electrical Inspectorate or any concerned authority on accidents and failures of supply.
- (5) maintain maps, plans and sections relating to supply of electricity etc.
- (6) ensure conducting of inspection of maps, plans and section of the licensee by any authorized person or Electrical Inspector or by any person on payment of specified fee.
- (7) suggest action to be taken in regard to any electric line or plant or appliance under the control of the consumer for the purpose of eliminating or reducing risk or personal injury or damage to property or interference with its use.

21. Revocation of license

- (1) The Commission may, after making an independent enquiry, revoke the license of an electricity trader, in public interest, in the following cases under section 19 of the Act:
 - (a) where the licensee makes, willful or prolonged default in doing anything which is required to be done under the Act and the rules or regulations made thereunder or the licence.
 - (b) where the trading licensee has failed to comply with all the regulations, codes, standards, orders or directions issued by the Commission or otherwise committed any act which renders the license revocable on grounds provided in the Act or the rules and regulations made thereunder.
 - (c) fails to show to the satisfaction of the Commission:
 - (i) that he is in a position to fully and effectively perform duties and obligations imposed on him under the license.

- (ii) to make deposit or furnish the required security or pay the fee or other charges required to be paid under the license.
- (d) Where, in the opinion of the Commission, the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him; and
- (2) Where the public interest so requires, the Commission may on an application or with the consent of the licensee, revoke his license, either in whole or part thereof, as it may deem necessary.
- (3) Before revoking a trading license, the Commission may make alternate arrangement for the discharge of the duties and responsibilities under the license, as it may consider necessary in public interest. All such arrangements shall be at the cost of the trading licensee only.
- (4) The Commission may, instead of revoking the licensee under sub-section (1) above, permit the license to remain in force and impose further restrictions / conditions as it may deem fit, which shall be binding and implemented by the licensee.
- (5) The Commission shall specify the date of effect of revocation in its order revoking the license.
- (6) Where the Commission has given notice of revocation of license under sub-regulation (1) above, and without prejudice to any penalty that maybe imposed or initiation of proceedings for prosecution, the licensee may, with prior approval of Commission, sell his utility or business to any other person, who is eligible for grant of license by the Commission.
- (7) No license shall be revoked by the Commission unless a notice of three months, in writing, is given to the licensee intimating the ground on which it proposes to revoke the license and the Commission considered the representation submitted by the licensee within the notice period against the revocation of license.

Chapter – 3

Miscellaneous

22. Savings

Nothing contained under these regulations shall affect the rights and privileges of a consumer under any other law for time being in force, including the Consumer Protection Act, 1986 (68 of 1986)

23. Grievances of consumers

- (1) In case of any dispute or complaint in respect of supply, the consumer shall be entitled to approach the concerned Forum for redressal of grievances of consumers under sub-section (5) of section 42 of the Act.
- (2) An appeal on the decision of the Forum shall lie to the Ombudsman in accordance with the provisions of sub-section (6) of section 42 of the Act.

24. Settlement of disputes and arbitration

- (1) The Commission shall adjudicate the disputes between the licensees or refer any dispute for arbitration on application by any licensee.
- (2) The Commission shall issue notices to all concerned licensees indicating the details of the dispute (s) and after hearing of the parties concerned, the Commission shall pass such orders / directions as it may deem necessary.
- (3) If any licensee is not satisfied with the order / directions passed by the Commission, the licensee shall make a request to the Commission for appointment of any Arbitrator.
- (4) On receipt of an application from the licensee for appointment of an Arbitrator, the Commission shall appoint an Arbitrator under section 86 (f) of the Act duly indicating the terms and conditions for such appointment for settlement of dispute.
- (5) The Arbitrator, nominated by the Commission, on hearing of the concerned parties shall pass a speaking order giving reasons for the conclusions arrived at on all the issues raised.
- (6) The Commission, on receipt of the award, given by the Arbitrator, shall consider the award and pass final orders, as it deems fit.
- (7) The cost of the Arbitration shall be borne by the concerned licensee (s), as may be decided by the Commission.

25. Studies relating to trading activity

The Commission may *suo moto* initiate or direct the trading licensee to undertake study on the trading activities or any matter relating to the trading business in public interest. The cost of such studies and other expenses shall be allowed as a pass through by the trading licensee in its expected revenue requirement.

Chapter – 4
Accounts

26. Accounts of trading licensee

- (1) The trading licensee shall maintain separate accounts for his intra-state trading business in accordance with the guidelines issued by the Commission from time to time. Till such time the Commission issues these guidelines, the trading licensee shall maintain the accounts in accordance with the provisions of the Companies Act, 1956 as amended from time to time.
- (2) The trading licensee shall prepare on a consistent basis such records, accounting statements for each financial year comprising a profit and loss account, a balance sheet, a statement of sources, application of funds etc. along with required notes thereto.
- (3) The licensee shall show separately the amounts for revenue, costs, assets, liabilities, reserves or provisions made which have been
 - (a) charged from or to any other business along with a description of the basis for that charge; and / or
 - (b) determined by apportionment or allocation between the various business activities together with a description of the basis of such apportionment or allocation.
- (4) The trading licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenditure while preparing the accounting statements for a financial year, except with the prior approval of the Commission. Any change made by the licensee in the basis of charge or apportionment or allocation of revenues or expenditure shall be in accordance with the provisions of the Companies Act, 1956 (1 of 1956), the accounting standards or regulations and the guidelines issued by the Commission from time to time.
- (5) Where a trading licensee has changed the basis of charge, apportionment or allocation adopted in financial year immediately preceding, he shall, if directed by the Commission, also prepare and submit to the Commission such accounting

statements on the basis of charge, apportionment or allocation which it has applied for the immediately preceding financial year.

- (6) The trading licensee shall also submit a report from the authorized auditors in respect of each financial year to the Commission stating that in their opinion the accounting statement, prepared as per sub-regulation (4) above, give a fair and true position of the revenues, costs, assets, liabilities, reserves and provisions attributable to the licensed trading business.
- (7) The trading licensee shall submit to the Commission the specified number of copies of the accounting statements and auditors' report by not later than six months after the closing of the financial year.
- (8) Any authorized officer of the Commission shall be entitled to inspect the books of the licensee and the licensee shall render all assistance to such authorized person.
- (9) Furnish required data or information to the Commission relating to the accounts maintained as and when directed.

Annexure – I**Application form for Intra State Trading Licence****[See Regulation 4 (1)]****Part – A: GENERAL INFORMATION OF APPLICANT****1. Details of Applicant**

- a. Full Name of the Applicant :
- b. Full Address of the Applicant :
- c. Name, Designation & Address of the Contact Person :
- d. Contact Telephone Numbers:
 Fax Number(s) :
 Email ID :

2. Details of Ownership

- a. Company / Firm / Co-op Society / Individual / Others :
- b. Details of Incorporation / Registration
 Place of Incorporation / Registration :
 Year of Incorporation :
 Registration Number :
- c. Names and Addresses of Directors / Partners / governing body members / Others
- d. Permanent Account Number allotted by Income Tax Department

3. Principal Share holders / Partners / Members :**4. Details of the area of operation**

- a. Nature of other trading licensee or authorisation, if any, of the applicant for electricity trading already granted:

5. Details of Operation

Maximum trading volume proposed to be undertaken by the applicant on a monthly basis for the first three years; (In Million units and capacity)

6. Funding arrangements (source of funding) to meet the obligations :
7. Arrangement for purchase of energy
8. Arrangement, if any, proposed with other existing trading, transmission and distribution licensees
9. Resume of the Organization giving details of
 - a. Management capability
 - b. Financial strength
 - c. Ability to attend to the activities in a sustainable manner
10. Date from which licence is sought

Date

Signature of the Applicant

Part – B: LIST OF DOCUMENTS TO ACCOMPANY LICENCE APPLICATION

1. Documents (attested copies) to be submitted along with the licence application
 - (a) Information relating to existing licence (if any), with copy of licence / Sanction No. and date.
 - (b) Certificate of Incorporation / Registration
 - (c) Certificate of commencement of Business
 - (d) Original Power of Attorney of the Signatory to commit the Applicant or its Promoter.
 - (e) Articles of Association, Memorandum of Association and similar statutory documents
 - (f) Details of Income Tax: PAN / TAN No.:
2. Organizational and Managerial Compatibility of Applicant
 - (a) Managerial
 - (i) Senior management's curriculum vitae
 - (ii) Cadre strength for different categories (technical and non-technical)
 - (b) Financial
 - (i) Bank references certifying that the Applicant is financially solvent
 - (ii) Annual Audited Reports for the past 5 years of the Applicant and of any Holding Company, Subsidiary or affiliated company (if any).
 - (c) Any other documentary evidence to substantiate the financial capabilities, technical competence etc.
3. Data relating to the Applicant's Proposed Business
 - (a) Approach and Methodology (Applicant is required to describe Approach and Methodology adopted for finalizing the Trading arrangements by the Applicant)
 - (b) Business plan (5 years projections) for the proposed trade business for which licence is sought (which should contain year wise projections of growth in trade volumes, metering plan, treatment of previous losses, debt restructuring plan, projection in regard to projected profit and loss account, balance sheets, cash flow statements and important financial parameters).

- (c) Five years annual forecasts of costs, sales, revenues, financing and funding arrangements (clearly specifying the assumptions involved)
- (d) any other information relating to the proposed trading in electricity

Date

Signature of the Applicant

Part C : FORMAT FOR ASSESSING COMPETENCE OF APPLICANT

*[To be filled in by the applicant or by each participant separately in case of JVC/
consortium (As applicable)]*

1. Previous Experience (Past 5 years details for Related Business)

A. General Information					
Does the applicant have previous experience in electricity trading? If yes, Specify details of experience, location (State / Country) etc.	Yes / No				
Does the applicant have trading experience in any other related sector? If yes, name the sector Specify location? (State / Country)	Yes / No				
B. Details of electricity trading in the last 5 years – Commercial Operations	Year 1	Year 2	Year 3	Year 4	Year 5
Trading volume at various voltage levels (Million Units) (a) Bulk trade (b) Retail trade					
Number of Ongoing Contracts with details (a) Bulk trade (b) Retail trade					
Bulk trade (Nos. and Quantum) End consumers Re-sellers(s) / Trader(s)					
Retail trade Consumer Base (Nos. and Quantum) High Tension Low Tension					

Revenue from electricity trading (Rs. Lakhs)					
(a) Bulk trade					
(b) Retail trade					
C. Details of trading in other sectors during the last 5 years – Commercial Operations	Year 1	Year 2	Year 3	Year 4	Year 5
Trading volume (_____ Units)					
(a) Bulk trade					
(b) Retail trade					
Revenue from trading (Rs. Lakhs)					
(a) Bulk trade					
(b) Retail trade					
Number of Ongoing trading Contracts with details					
(a) Bulk trade					
(b) Retail trade					
D. Financial Information (Rs. lakhs)	Year 1	Year 2	Year 3	Year 4	Year 5
(i) Equity					
Promoters'					
Government/ Financial					
Institutions					
Public					
Others					
(ii) Assets					
(iii) Liabilities					
Long Term					
Short Term					
(iv) Income					
Electricity trading					
Other sources					

(v) Expenses					
Administration and General Expenses					
Employee Cost					
Depreciation					
Interest and Financial Charges					
Long Term					
Short Term					
Other issues					
(vi) Profits and Returns					
Net Profits					
Dividends Paid					

2. Details of Proposed Trading Activity (Business for which licence is sought)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

Funding	
Whether applicant himself finances the proposed trading fully (If yes, details to be furnished)	Yes / No
Proposed means of Finance	
(a) Equity (Rs. Lakhs) Applicant Co-promoters Others (<i>specify</i>)	
(b) Debt Domestic (Rs. Lakhs) Indian Financial Institutions Commercial Banks Others (<i>specify</i>) International (FC Million) Supplier's Credit Direct Borrowing Others (<i>specify</i>) Equivalent INR (with Exchange rate used)	
(c) Others (<i>specify</i>)	

<p>In case trading activity is proposed to be jointly funded along with External Agency</p> <p>Name and Address of the Agency, and contact details of the person or the Agency (name, address, telephone/fax numbers, email etc.,)</p> <p>(a) Proposed equity by Applicant (b) Proposed Equity from the Agency (Rs. Lakhs)</p> <p>(c) Agency's equity as a percentage of total equity (%)</p> <p>Nature of proposed tie-up between Applicant and the other agency – (Copy of the contract deed to be furnished).</p>	
<p>Details of debt proposed for trading activity</p> <p>(a) Details of Lenders (name & address).</p> <p>(b) Details of Loan packages indicating the loan amount, currency, Term of loan, interest rate, up-front fees, Commitment charges etc.</p> <p>(c) Whether any guarantee is being sought for the loans from any agency.</p> <p>(d) If Yes, provide details</p>	<p>Yes/ No</p>
<p>Minimum level of communication infrastructure available</p> <p>(specific details)</p>	<p>Telephone / Fax / Internet / V-Sat</p>

Note :

Consent letters of the other Agency and Contractors willing to associate with the Applicant for the above project to be enclosed.

Necessary approvals and no objection certificates to be obtained from the concerned at appropriate time by the applicant and forwarded to the Commission, as and when required.

3. Qualifications and Expertise (Personnel)

Name of personnel	Status in the firm	Qualification	Specialization	Years of experience
1.				
2.				
3.				
4.				
5.				

Note : Atleast one full time professional, having experience in each of the disciplines like Power Systems Operation, Finance should be part of the Core team.

Knowledge and understanding of power systems operation (covering generation availability, capacity utilization, demand, plant load factor, flow of electricity etc), power market operations ,commercial arrangements(PPAs, BSA, TSA, etc) and communication and scheduling of power (load dispatch are required)

4. Revenue Potential (Trading for which licence is sought)

General Information	
Details of proposed Bulk consumers End consumers Reseller(s) / Trader(s)	
Retail consumer base (Nos.) High Tension Low Tension	
Trading of electricity (expected annual) Bulk Trade Expected quantum (mu) Anticipated demand growth (%) Retail Trade Expected quantum (mu) Anticipated demand growth (%)	

Commercial Information	
Existing Average Tariff (Rs./ Unit)	
Bulk supply tariff	
Retail supply tariff	
High tension	
Low tension	
Financial Information	
Expected Annual turn over (Rs. Lakhs)	

Note: Rating certificate from the competent authority to be furnished for the existing business.

5. Financial Soundness (Other Subsidiary Business Units)

[To be filled in by the applicant or by each participant separately in case of JVC/ consortium (As applicable)]

General Information					
Names of Subsidiary Business Units 1. 2. 3. 4. 5.	Products Manufactured/ Services 1. 2. 3. 4. 5.				
Banker's details Details of Bank Accounts Name and Address of the Bank Account Number Contract person & details Name of the representative Designation Contact numbers e-mail ID					
Financial Information	Year 1	Year 2	Year 3	Year 4	Year 5
Fixed Assets Gross Fixed Assets Accumulated Depreciation Net Fixed Assets					

Equity Promoters' Government/ Financial Institutions Public Others					
Liabilities Long Term Short Term					
Income Sale of Power Others (<i>specify</i>)					
Expenses Administration and General Expense Repairs and Maintenance Employee Cost Depreciation Interest and Financial Charges Long Term Short Term Others (<i>specify</i>)					
Financial Indicators	Year 1	Year 2	Year 3	Year 4	Year 5
Overall Turnover (Rs. Lakhs)					
Profits and Returns (Rs. Lakhs) Net Profits Dividends Paid					
Operating Ratios Return on Equity Return on Capital Employed Return on Net Fixed Assets					
Liquidity Ratio Debt Service Coverage Ratio Current Ratio Quick Ratio					

Capital Adequacy and Credit Worthiness					
Debt/ Net worth Debt/ Equity					
Turnover Ratio					
Total Asset Turnover Fixed Asset Turnover					

6. Baseline Information (Business for which licence is sought)

Commercial Information	
Metering Status	
Total interconnection points	
Unmetered interconnection points	
Consumers with TOD meters	
Metered retail consumers	
Unmetered retail consumers	
Consumer with TOD meters	
Billing Status	
Billing (as a % of Total Input)	
Loss	
Commercial loss (%)	

Note :

1. Certificates/documents in support of all the credentials detailed above, from the Owner/ Client for whom the projects were promoted should be submitted along with the application.
2. Wherever conversion factor is used (for currency conversion and others), mention the conversion factor used for this purpose.

Date

Signature of the Applicant

Annexure II

FORMAT OF LICENCE OF AN ELECTRICITY TRADER

Licence granted for Trading in electricity

[See Regulations 4 (5) (i)]

The Meghalaya Electricity Regulatory Commission (hereinafter referred to as “the Commission”), in exercise of the powers conferred under section 14 of the Electricity Act, 2003 (Act 36 of 2003, hereinafter referred to as “the Act”), hereby grants this licence as a Category _____ trader to _____, (hereinafter referred to as “the licensee”) to trade in electricity in the State of Meghalaya subject to the terms and conditions contained in the Act, the rules made by the Central Government (hereinafter referred to as “the Rules”) and the regulations specified by the Commission (hereinafter referred to as “the Regulations”), including statutory amendments, alterations, modifications, re-enactments thereof, which shall be read as part and parcel of this licence.

The licence shall come into effect from

PART – I

DEFINITIONS

1. Words, terms and expressions to which meanings are assigned by the Electricity Act 2003 (36 of 2003), shall have the same meaning in these General Conditions.
2. Unless the context otherwise requires:
 - (a) **“accounting statement”** means for each financial year, accounting statements for the licensed business comprising a profit and loss account, a balance sheet and a statement of sources and application of funds, together with notes thereto as detailed under the Companies Act, 1956 (1 of 1956) or other Acts under which the licensee is governed and such other particulars or details as the Commission may prescribe from time to time. If the trading licensee engages in any other business or activity in addition to the licensed business, the accounting statements shall be maintained for such other business and show specifically the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) diverted from the licensed business to any other business or vice versa together with a description of the basis of that charge; or

- (ii) the mode of apportionment or allocation between the licensed business and any other business of the licensee together with a description of the basis of the apportionment or allocation.
- (b) **“Act”** means the Electricity Act, 2003 (Act 36 of 2003)
- (c) **“agreement”** means agreement entered into by the licensee with the seller of electricity, buyer of electricity, other licensees, State Load Despatch Centre, consumer etc. that enables the trading transactions to take place;
- (d) **“annual accounts”** means the accounts of the licensee (profit and loss account, balance sheet and other related statements to the trading business) prepared in accordance with the provisions of the Companies Act, 1956 and/or in such other manner as may be specified by the Commission in accordance with the provisions of the Act;
- (e) **“area of activity”** means the trading activity in electricity in the State of Meghalaya;
- (f) **“auditors”** means the licensee’s auditors holding office in accordance with the requirements of sections 224 to 234A or section 619 as appropriate, of the Companies Act 1956 (1 of 1956);
- (g) **“authorized”**, in relation to any person, business or activity, means authorized by licence granted under section 14 of the Act or deemed license under the first, third and fifth provisos to section 14 of the Act or exemption granted under section 13 of the Act and these regulations;
- (h) **“Commission”** means the Meghalaya State Electricity Regulatory Commission (MSERC);
- (i) **“Conduct of Business Regulations”** means the Meghalaya State Electricity Regulatory Commission - Conduct of Business Regulations for the time being in force;
- (j) **“customer”** means any buyer purchasing electricity from the trader, viz. distribution licensee, any other trading licensee or any other customer that the licensee enters into a sale agreement.
- (k) **“Deemed licensee”** means a person as defined under first, third and fifth provisos under section 14 of the Act.
- (l) **“Force Majeure”** means events beyond the reasonable control of the licensee, including, but not limited to earthquakes, cyclones, floods, storms, adverse weather conditions, war, terrorist attacks, civil commotion or other similar occurrences that leads to any act that would involve a breach of relevant laws or regulations by the licensee;

- (m) **“licence”** means a licence granted under section 14 of the Act;
- (n) **“licensee”** means a person who has been granted a licence by the Commission under section 14 of the Act;
- (o) **“licensed business”** means the business of trading in electricity in the area of activity as authorized under the licence;
- (p) **“open access”** means the non-discriminatory provision for the use of transmission lines or distribution lines or transmission systems or distribution systems or associated facilities with such lines or systems by any licensee or customer or a person engaged in generation in accordance with the regulations specified by the Commission;
- (q) **“person”** shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (r) **“regulations”** means the regulations made by the Commission, under section 181 of the Act;
- (s) **“State”** means the State of Meghalaya;
- (t) **“State Government”** means the Government of Meghalaya;
- (u) **“subsidiary”** shall have the same meaning as in section 4 of the Companies Act 1956 (1 of 1956);
- (v) **“supply”** in relation to electricity means the sale of electricity to a person, licensee or consumer within the State of Meghalaya ;
- (w) **“Electricity Supply Code”** means the Code published by the Commission under section 50 of the Act;
- (x) **“trader”** means a person who has been granted a licence or a deemed licensee to undertake trading in electricity under section 14 of the Act;
- (y) **“trading”** means purchase of electricity for resale thereof and the expression “trade” shall be construed accordingly;
- (z) **“trading business”** means the business of the under a license granted by the Commission under section 14 of the Act;
- (aa) **“transfer”** shall include the sale, exchange, gift, lease, licence, securitisation, mortgage, charge, pledge or grant of any other encumbrance or otherwise permitting of any encumbrance to subsist or parting with physical possession of the asset relating to the licensed business;
- (ab) **“transmit”** means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;
- (ac) **“transmission licensee”** means a licensee authorized to establish or operate transmission lines;

- (ad) “**transmission system**” means the system consisting mainly of extra high voltage electric lines having design voltage of 66 kV and higher, owned or controlled by the transmission licensee, and used for the purposes of the conveyance of electricity and includes all bays/equipments upto the interconnection with the distribution system, and any plant, apparatus and meters owned or used in connection with the transmission of electricity, but shall not include any part of a distribution system;

PART – II

GENERAL CONDITIONS

3. TERM OF THE LICENCE

- (1) The trading licence shall come into force on _____ (the date to be specified by the Commission) in the order granting this licence and unless revoked by the Commission earlier, under section 19 of the Act , the license shall remain in force for a period of 25 (Twenty five) years from that date.
- (2) This trading licence is not transferable except under orders of the Commission.

4. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

- (1) The trading licensee shall comply with the provisions of the Act, rules, regulations, orders and directions issued by the Commission from time to time.
- (2) The trading licensee shall act in accordance with the General Conditions specified except where the licensee is exempted from any provisions of these General Conditions or specifically permitted by the Commission for any deviation.
- (3) The trading licensee shall duly comply with the orders and directions of the National Load Despatch Centre, Regional Load Despatch Centre and the State Load Despatch Centre and other statutory authorities issued in the discharge of his functions.

5. GENERAL CONDITIONS OF THE TRADING LICENSEE

- (1) The trading licensee shall engage in the business of trading in electricity in the State provided that any such sale or supply of electricity to a customer shall be subject to the trading margin that may be approved by the Commission from time to time.
- (2) The trading licensee shall have in place all agreements, for the purchase, sale and supply of electricity including the billing and settlement agreement, with all necessary authorizations as required by it to perform its obligations under such

agreements and the conditions specified in this license. The licensee shall submit to the Commission copies of all such agreements for its information.

- (3) The trading licensee shall not, without the prior approval of the Commission:
- (a) undertake any transaction to acquire by purchase or takeover or otherwise, utility of any other licensee in its area of activity; or
 - (b) acquire any beneficial interest in any generating company or generating station or distribution licensee or any other trading licensee; or
 - (c) merge its utility with any other licensee within the State; or
 - (d) transfer its licence, or its utility, or any part thereof, by sale, lease, exchange or otherwise;

Any agreement relating to any transaction referred to in sub-clauses (a) to (d) made without the approval of the Commission, shall be invalid.

- (4) To obtain the approval of the Commission as aforesaid, the licensee shall file an application in the specified format with the Commission disclosing all relevant facts in that behalf and the Commission shall dispose of such application expeditiously.
- (5) The grant of this trading licence to the licensee shall not in any way restrict the right of the Commission to grant a licence to any other person within the licensee's area for trading in electricity as an electricity trader.
- (6) If the contract of the trading licensee with its customer is for a fixed term, the licensee shall inform the customer well in advance of the expiry of the term of the agreement and initiate action for its continuance with customers.
- (7) The trading licensee shall comply with all the requirements in accordance with the provisions of the Act, the rules and the regulations made thereunder, Meghalaya State Electricity Grid Code, Meghalaya State Electricity Distribution Code, Meghalaya State Electricity Supply Code, other codes, orders and directions issued by the Commission from time to time.
- (8) The trading licensee shall maintain an upto date register or record of all the business transactions.
- (9) The trading licensee shall fulfill the technical requirement, capital adequacy requirement and creditworthiness specified by the Commission in the regulations, as amended from time to time, and submit quarterly reports to the Commission on a regular basis.
- (10) The trading licensee shall increase its network if the quantum of trade moves from a lower category to a higher category and the change of category shall be based on the volume of electricity trade as on 31st March of each year for

which the licensee shall keep the Commission informed of the changes in the net worth as and when it occurs, as directed by the Commission.

- (11) The trading licensee shall establish adequate communication facilities like telephone, fax, computer, internet facilities etc before undertaking trading.
- (12) The trading licensee shall render all assistance for carrying out inspection of the transactions relating to the licence to any person authorized to inspect by the Commission.
- (13) The trading licensee shall pay the initial / annual licence fee as specified by the Commission.
- (14) The trading licensee shall purchase the energy required for meeting its obligations to its customers in an economical manner and in a transparent manner in accordance with the guidelines, directions etc issued by the Commission from time to time.
- (15) The trading licensee shall comply with all the guidelines or directions issued by the State Load Despatch Centre and assist in maintaining maximum economy in operation of the power system.
- (16) The trading licensee shall make an application to the Commission whenever intervening transmission facility to arrange additional / surplus capacity available is required subject to payment of rates and charges, terms and conditions etc as specified by the Commission.
- (17) The trading licensee shall introduce systems and procedures necessary for complying with conditions specified in the licence.
- (18) The trading licensee shall not enter into any Agreement or abuse its dominant position or enter into a combination, which is likely to cause or causes an adverse effect on competition in the electricity industry.
- (19) If the trading licensee anticipates that it will be unable to meet any of the obligations under this licence, it shall as soon as possible intimate the Commission and give sufficient reasons for the same.
- (20) Any other special condition that may be specified by the Commission as it deem fit as necessary.

6. ACCOUNTS

- (1) Unless otherwise specified by the Commission, the financial year of the trading licensee for the purposes the licensed business shall be from the first of April to the thirty-first of March of the following year.
- (2) The trading licensee shall, in respect of the licensed business and any other business:

- (a) prepare and maintain, on a consistent basis, such accounting records and submit to the Commission
 - (i) the accounting statements; such as profit and loss account, balance sheet or any other statements specified by the Commission, in particular and as per the provisions of the Companies Act, 1956 as amended from time to time.
 - (ii) submit to the Commission on specified dates, the profit and loss account, cash flow statement and balance sheet together with such supporting documents and information as the Commission may prescribe from time to time;
 - (iii) in respect of the accounting statements prepared, an auditor's report for each financial year, stating that in their opinion these statements have been properly prepared in accordance with the Companies Act, 1956 and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to such businesses to which the statements relate; and
 - (iv) copies of the audited accounting statements and auditor's report shall be submitted to the Commission within six months after the close of the financial year to which they relate.
- (3) The trading licensee shall not normally change the basis of charge or apportionment or allocation of revenues or expenses for preparation of the accounting statements in respect of a financial year from those applied in respect of the previous financial year, without prior intimation to the Commission. Any change, if proposed, in the basis of charge or apportionment or allocation of revenues or expenses shall be consistent with the provisions of the Companies Act, 1956, the accounting standards or rules and any guidelines issued by the Commission in this regard.
- (4) Where, in relation to the accounting statements in respect of a financial year, the licensee has changed the basis of charge or apportionment or allocation from those adopted for the immediately preceding financial year, the licensee shall, if requested by the Commission, (in addition to preparing accounting statements on the basis it has adopted), prepare also such accounting statements on the basis which it has adopted in the immediately preceding financial year.
- (5) As directed by the Commission, the trading licensee shall:
 - (a) prepare and publish the annual accounts of the trading licensee, in the manner specified herein;
 - (b) furnish the accounting policies adopted;

- (c) prepare the accounts and statements in accordance with generally accepted Indian accounting standards;
- (6) The references to costs or liabilities reasonably attributable to licensed business or other business shall be construed as excluding taxation.
- (7) the trading licensee shall maintain separate accounts for the licensed business and other business to ensure that the assets and liabilities of the licensed business are not encumbered by the other businesses of the trader.
- (8) The Commission may require the licensee to comply with the provisions of sub clause (1) to (7) above treating the trading and other activities of the licensee as separate and distinct businesses and in accordance with any guidelines issued by the Commission in this regard.
- (9) Any person authorized by the Commission shall be entitled to inspect and verify the accounts of the trading licensee and the licensee shall render all necessary assistance to such person.

7. PROVISION OF INFORMATION TO THE COMMISSION

- (1) The trading licensee shall furnish to the Commission without undue delay such information, documents and details related to the licensed business or any other business of the licensee, as the Commission may require for its own purposes or for the purposes of the Government of India, State Government, the State Transmission Utility, The State Load Dispatch Centre, the Central Commission and/or the Central Electricity Authority.
- (2) The trading licensee shall furnish to the Commission the information as may be required from time to time to monitor the licensee's performance and compliance of the terms and conditions of the licence and any other legislative or regulatory requirement in the manner required by the Commission.
- (3) The trading licensee shall file the annual revenue requirements as may be directed by the Commission and in the form and manner specified thereto, to enable the Commission to determine the trading margin for the trading business of the licensee.
- (4) The trading licensee shall promptly inform the Commission about any incident restricting it from meeting its obligation under the licence including any act of omission or commission by others and steps taken by the licensee to mitigate the effect of such incident. The trading licensee shall notify the Commission as soon as possible the occurrence of any other incident which materially affects any part of its trading activities or any event, by not later than thirty days from the date of such occurrence; as under:

- (a) submit a report to the Commission giving full details of the facts within the knowledge of the licensee regarding the incident and its cause; and
 - (b) give copies of the report to all parties concerned with such incident and to such other persons as the Commission may direct.
- (5) The Commission may, by order, after providing an opportunity of hearing, direct the trading licensee to pay such amount of compensation as the Commission may direct, to persons who are affected or prejudiced by any act of commission, omission or negligence on the part of any of the employees or agents of the licensee.
- (6) The trading licensee shall submit a business plan in accordance with the provisions of MSERC (Terms and Conditions for determination of tariff) Regulations - 2010.

8. CAPITAL ADEQUACY, CREDIT WORTHINESS NORMS TO BE MAINTAINED

- (1) The trading licensee shall comply with the regulations, guidelines, directions and orders which the Commission may issue from time to time in regard to the technical and financial parameters and norms to be maintained at all times by the trading licensee.
- (2) The net worth at any point of time during the period of trading shall not reduce below 75% of the minimum requirements specified for the category of trader and shall be replenished at the end of every quarter (i.e) March, June, September & December every year to the specified levels.
- (3) The trader shall maintain investment grade credit rating duly certified by a leading independent Credit Rating Agency to the effect.
- (4) The non-maintenance of the technical and financial parameters as per sub-clause (1) above shall amount to a material breach of the obligations under the licensee;

9. PAYMENT OF LICENCE FEES

- (1) Within thirty days or such further period as the Commission may allow after the coming into force of this licence, the licensee shall pay to the Commission a fee as may be specified by the Commission and on a prorata basis for the balance period of the year in quarterly instalments as specified in sub-clause (2).
- (2) The Commission may, from time to time revise the licence fee payable by the licensee. The Commission may publish the annual licence fee payable by the licensee on/ or before the start of each financial year.

- (3) Where the trading licensee fails to pay to the Commission any of the fees due under sub-clauses (1) or (2) by the due dates:
- (a) without prejudice to other obligations, the licensee shall be liable to pay interest on the outstanding amount at a simple interest rate specified by the Commission, the interest being payable for the period beginning on the day on which the amount became due, and ending on the day on which the payment is made to the Commission; and
 - (b) in the event of continued default by the licensee, the Commission may revoke this licence pursuant to section 19 of the Act and regulation 21 of these trading regulations.
- (4) The trading licensee shall be entitled to take into account any fee paid under clauses (1) and (2) above as an expense in the determination of aggregate revenues, but shall not take into account any interest paid pursuant to clause (3) above.

10. AMENDMENT OF LICENCE CONDITIONS

Any terms and conditions of licence may be altered or amended by the Commission at any time in public interest in exercise of powers under section 18 of the Act as under:

- (a) where the licensee has made an application under sub-section (2) (a) of section 18, of the Act proposing any alteration or modifications to the terms and conditions of licence, the licensee shall publish a notice of such application with such particulars and in such manner as specified in Regulation 12 of the regulations;
- (b) in the case of an application proposing alterations or modifications in the area of activity comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission shall make any alterations or modifications only with the consent of the Central Government;
- (c) where an alteration or modification is proposed, the Commission shall publish the proposed amendment, alteration or modification to the license with such particulars and in such manner as may be required. The Commission shall not make any alteration or modification unless all suggestions or objections received within thirty days from the date of the publication of the notice have been considered.

- (d) The Commission may, with reasons recorded in writing, and after providing reasonable opportunity to the licensee to be heard, issue such appropriate orders modifying or amending the conditions of this licence, as it consider appropriate.

11. SETTLEMENT OF DISPUTES

The provisions contained in regulation 24 of these regulations shall apply to any dispute between the trading licensee and any generating company or transmission licensee or consumers or distribution licensee and such disputes shall be settled in accordance with the provisions contained in the said regulation.

12. TARIFF, TRADING MARGINS AND EXPECTED REVENUE CALCULATION

- (1) The trading licensee shall calculate the expected revenue from the trading margin, which it is permitted to recover as approved by the Commission, the terms and conditions and other guidelines, orders and directions issued by the Commission from time to time.
- (2) The trading licensee shall file the expected revenue calculation in the manner on the date specified by the Commission.
- (3) The trading licensee shall submit to the Commission every year, not later than 30th November, a statement with full details of its expected aggregate revenues and cost of service for the ensuing financial year for its licensed business in accordance with the provisions of the Act and the regulations, guidelines and orders issued by the Commission from time to time.

13. COMPLIANCE AND SUBMISSION OF INFORMATION TO STATE LOAD DESPATCH CENTRE & CENTRAL ELECTRICITY AUTHORITY

- (1) The trading licensee shall comply with the provisions of codes and regulations published / specified by the Commission and directives of the Commission issued from time to time;
- (2) The trading licensee shall submit to the State Load Dispatch Centre (SLDC) all information pertaining to the trade of electricity by the licensee and the SLDC shall verify the information provided by the licensee on quantum of electricity traded as against its reports and submit a review report to the Commission.
- (3) The trading licensee shall submit information to the Central Electricity Authority as required under section 74 of the Act;
- (4) The trading licensee shall pay the SLDC charges as may be specified by the Commission from time to time;

- (5) The trading licensee(s) shall comply with the trading margin fixed by the Commission.

14. PRUDENTIAL REPORTING

- (a) The trading licensee, shall, as soon as practicable, report to the Commission any significant changes in its business which may affect the licensee's ability to meet its obligations under the Act, rules and regulations directions / orders issued by the Commission.
- (b) Any major change in shareholding pattern, ownership or management of the licensee.

15. COMMUNICATION

- (1) All communications relating to the trading licence shall be in writing and shall be delivered either in person to the addressee or his authorized agent, or sent by registered/speed post to the place of business of the addressee.
- (2) All communications shall be regarded to have been given by the sender and received by the addressee:
- (a) when delivered in person to the addressee or to his authorized agent;
- (b) on expiry of fifteen days from the date of sending by registered/ speed post at the address of the addressee.

16. INTRODUCTION OF COMPETITION IN TRADING

The Commission may, after considering applicable Government policy and in consultation with the other licensees and generating companies, formulate guidelines for the introduction of competition in supply / promote the development of a market (including trading of power) in the State.

J. B. POON,
Secretary
Meghalaya State Electricity Regulatory Commission,
Shillong.



The Gazette of Meghalaya

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No.19	Shillong,	Wednesday,	February 16, 2011,	27th Magha, 1932 (S. E.)
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PART II-A

GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th February, 2011.

No.MSERC/OA/02/2011/01.-The following draft of the Meghalaya State Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations, 2011 which the Commission proposes to make in exercise to the powers conferred under clauses (p) and (q) of subsection (2) of section 181 read with sub section(2), (3) and (4) of section 42 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) of section 181 and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(TERMS AND CONDITIONS OF OPEN ACCESS) REGULATIONS, 2011.

(_____of 2011)

1. Short title, commencement and extent

- (1) These regulations may be called the **“Meghalaya State Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2011.”**
- (2) They shall come into force from the date of publication in the Gazette of Meghalaya.
- (3) They shall apply to the open access for use of the intra-state transmission system and/or the distribution system of licensees in the State, including when such system is used in conjunction with inter-state transmission system unless explicitly stated to be applicable only for a specific category of licensee.

2. Definitions

- (1) In these regulations, unless the context otherwise requires -
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
 - (b) "Allotted transmission capacity" means the contracted power for transfer (in MW) between the specified point (s) of injection and point (s) of drawal allotted to a long term customer on the intra-state transmission system and the expression "allotment of transmission capacity" shall be construed accordingly.
 - (c) "Commission" means the Meghalaya State Electricity Regulatory Commission;
 - (d) "Consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;
 - (e) "Existing beneficiary" means a person who is a user of the transmission / distribution system on the date of coming into force of these regulations either as a generator or transmission licensee or distribution licensee or deemed licensee or otherwise permitted to its user.
 - (f) "Installation" means the whole of electric wires, fittings, motors and apparatus installed and wired by or on behalf of the consumer on one and the same premises starting from the point of commencement of supply;
 - (g) "Nodal agency" means the nodal agency defined in regulation 7 of these regulations;

- (h) "Open access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Commission;
- (i) "Open access user" means a person permitted by the Commission to use intra-state transmission system or receive supply of electricity from a person other than the distribution licensee of his area of supply, and the expression includes a generating company and licensee, who has availed of or intends to avail of, open access;
- (j) "Person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- (k) "Premises" include any land, building or structure;
- (l) "Reserved transmission capacity" means the power transfer (in MW) between the specified point (s) of injection and point (s) of drawal allowed to a short term customer on the transmission system depending on availability of transmission capacity and the expression "reservation of transmission capacity" shall be construed accordingly.
- (m) "SLDC" means the State Load Despatch Centre in its present form as an integral unit of the licensee until or established under sub-section (1) of section 31 of the Act;
- (n) "State" means the State of Meghalaya.
- (o) "State Transmission Utility" means the Board or the Government company specified as such by the State Government under sub-section (1) of Section 39;
- (p) "State Grid Code" means the Meghalaya State Grid Code specified by the Commission and the expression includes the Indian Electricity Grid Code (IEGC) specified by Central Electricity Regulatory Commission.
- (q) "Wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under Section 62 of the Act;
- (2) Words and expressions used and not defined in these regulations but defined in the Act or State Grid Code or IEGC shall have the meanings assigned to them in the said Act or in the Grid Code or in IEGC, as the case may be.

3. Criteria for allowing Open Access

- (1) Long-term open access shall be allowed in accordance with the transmission and distribution planning criterion stipulated in the State Grid Code.

- (2) Short-term open access shall be allowed, if the request for open access can be accommodated, by utilizing:-
 - a) Inherent design margins
 - b) Margins available due to variation in power flows; and
 - c) Margins available due to in-built spare transmission system capacity and distribution system capacity created to cater for future load growth.

4. Eligibility for Open Access and Phasing

- (1) Subject to the provisions of these regulations, any person shall be eligible for open access to the intra-state transmission system of the State Transmission utility or any transmission licensee(s) and/or distribution system(s) of the distribution licensee(s) within the State.
- (2) Such open access shall be subject to payment of such charges as may be determined by the Commission from time to time.
- (3) Every person, with a captive generating plant shall have the right to open access as per the provisions of section 9 of the Act.
- (4) Subject to operational constraints and other relevant factors, open access shall be allowed to the consumers by the transmission licensee(s) and/or distribution licensee(s) for contracted demand of 1 MW and above.
- (5) The Commission may allow Open Access to consumers other than those specified in clause (4) above at such time as may be considered feasible.

5. Categorization of Open Access Users

- (1) The open access users shall be classified into the following categories based on the duration of use of the intra- state transmission system and/or distribution system, namely –
 - a) Long-term Open Access users, and
 - b) Short-term Open Access users
- (2) The persons availing or intending to avail access in case of intra-state transmission system or distribution system for a period of five years or more shall be the long-term open access users.

Provided that the existing beneficiaries of an intra-state transmission system and distribution system owned or operated by the State Transmission Utility and

distribution licensee respectively shall be deemed to be the long-term open access users of the particular system and the application fee schedule according to Regulation 9(3) shall not apply for them.

- (3) The open access users other than the long-term open access users shall be the short-term open access users.

Provided that the maximum duration for which the short-term access is allowed at a time shall not exceed one year.

Provided further that the short-term open access user shall be eligible to obtain fresh reservation after expiry of his term.

6. Allotment Priority

- (1) Allotment priority of a long-term open access user shall be higher than reservation priority of a short term open access user.
- (2) Within a category (Long-term or short-term), there shall be no discrimination between open access user and self-use by integrated entity.
- (3) The decision to allow open access shall be on the basis of first come first served.
- (4) In case of short-term open access users, at given point of time, if the capacity sought to be reserved by the open access users is less than the available capacity at that point of time, open access shall be permitted immediately and each short-term open access user shall pay the transmission or wheeling charges in accordance with Regulation 14.
- (5) (a) In case of short-term open access, if the capacity sought to be reserved by the open access users is more than the available capacity at that point of time, the State Load Despatch Centre concerned shall invite snap bids through fax/e-mail.
- (b) The floor price for the bidding shall be the price determined in accordance with Regulation 14.
- (c) The bidders shall quote price in terms of percentage points above the floor price.
- (d) The reservation of capacity will be made in decreasing order of the price quoted.
- (e) In case of equal price, if required (Capacity is short), the reservation of capacity shall be made pro rata to the capacity sought.

- (f) The open access user getting reservation for a capacity less than the capacity sought by him shall pay charges for the capacity allotted at the rate quoted by him.

7. Nodal Agency

- (1) For all long-term open access transactions the nodal agency for receiving and processing applications shall be the:
 - (a) STU for transactions from where the point of drawal or point of injection is located on the intra-state transmission network;
 - (b) Otherwise, the Distribution licensee of the area where the point of drawal is located.
- (2) For short-term open access transactions the nodal agency for receiving and processing of applications shall be the SLDC.

8. Detailed Procedure

- (1) The STU shall issue guidelines, detailed procedures and applications forms for applying for long term open access within thirty days of notification of these regulations after obtaining approval from the Commission. The STU guidelines will also be adopted by the distribution licensees.
- (2) The SLDC shall issue guidelines, detailed procedures and application forms for applying for short term open access within thirty days of notification of these regulations after obtaining approval from the Commission.

9. Procedure for Long-Term Open Access

- (1) An application for long-term open access shall be submitted to the concerned nodal agency in accordance with the detailed procedure issued under Regulation 8.
- (2) The application shall contain the details, such as capacity needed, point(s) of injection, point(s) of drawal, voltage level, duration of availing open access, peak load, average load and such other additional information that may be specified by the nodal agency:
- (3) The application shall be accompanied by a non-refundable application fee of Rs five thousand payable in the name and in the manner to be decided by the nodal agency;

- (4) Based on system studies conducted in consultation with other agencies involved, including other transmission and distribution licensees, the nodal agency shall, within 30 days of receipt of the application, intimate to the applicant whether or not the long-term access can be allowed without further system strengthening:

Provided that where the long-term access can be allowed without further system strengthening, shall be allowed immediately after entering into commercial agreements.

- (5) If, in the opinion of the nodal agency, further system strengthening is essential before providing the long-term access, the applicant may request the nodal agency to carry out the system studies and preliminary investigation for the purpose of cost estimates and completion schedule for system strengthening;
- (6) The nodal agency shall carry out the studies immediately on receipt of request from the applicant under clause (5) above and intimate results of the studies within 90 days of receipt of request from the applicant;
- (7) The applicant shall reimburse the actual expenditure incurred by the nodal agency for carrying out the system studies and preliminary investigation for the purpose of cost estimates and completion schedule for system strengthening.

Provided that the fee of rupees Rs five thousand paid by the applicant shall be adjusted against the actual expenditure to be reimbursed by the applicant

10. Bulk Capacity Agreement

- (1) A long-term open access user shall enter into Bulk Power Transmission / Distribution Capacity Agreement with the transmission / distribution licensee for use of their transmission system and distribution network.
- (2) The agreement shall provide, amongst other things for the eventuality of premature termination and its consequences on the contracting parties.
- (3) After agreement has been entered into and copies furnished to State Load Dispatch Centre, the State Load Dispatch Centre shall inform the open access user the date from which open access is likely to be available.
- (4) The date of availability of open access shall not be later than 3 days from the date of furnishing of agreement.

11. Exit Option

- (1) A long-term open access user shall not relinquish or transfer his rights and obligations specified in the Bulk Power Transmission / Distribution Capacity Agreement, without prior approval of the Commission.
- (2) The relinquishment or transfer of rights and obligations by a long-term open access user shall be subject to payment of compensation, as per the terms of open access agreement or as may be directed by the Commission.

12. Procedure for Short-Term Open Access User

- (1) A short-term open access user shall submit an application for transmission/distribution access to the State Load Despatch Centre;
- (2) The application shall contain the details such as capacity needed, point(s) of injection, point(s) of drawal, duration of availing open access, peak load, average load and such other additional information that may be specified by the State Load Despatch Centre;
- (3) The application shall be accompanied by a non-refundable application fee of Rs. One thousand payable in the name and in the manner to be decided by the State Load Despatch Centre;
- (4) The reserved capacity shall not be transferred by a short-term open access user to any other open access user.

13. Non-Utilization of Reserved Capacity by Short-Term Open Access User

- (1) In case a short-term open access user is unable to utilize, full or substantial part of the reserved capacity, it shall inform the State Load Despatch Centre along with reasons for his inability to utilize the reserved capacity and may surrender the reserved capacity;
- (2) The State Load Despatch Centre may reduce or cancel the reserved capacity of a short-term open access user when such a short-term open access user frequently under-utilizes the reserved capacity;
- (3) The short-term open access user, who has surrendered the reserved capacity under clause (1) above or whose reserved capacity has been reduced or cancelled under clause (2) above, shall bear the transmission / wheeling charges and the scheduling and system operation charge based on the original reserved transmission capacity

for seven days or the period of reservation surrendered or reduced or cancelled, as the case may be, whichever period is shorter.

- (4) The capacity available as a result of surrender or reduction or cancellation of the reserved capacity by the State Load Despatch Centre under clause (1) or clause (2) above, may be reserved for any other short-term open access user in accordance with these Regulations.

14. Open Access Charges

The charges for open access shall consist of one or more of the following components, namely:-

(1) Transmission / Distribution (Wheeling) Charges

The charges for use of the system of the licensee for intra-state transmission or distribution except intervening transmission facilities shall be regulated as under, namely:-

- (i) The annual charges shall be determined by the Commission in accordance with the terms and conditions of tariff notified by the Commission from time to time and after deducting the adjustable revenue from the short-term open access users, these charges shall be shared by the long-term users;
- (ii) (a) The charges payable by a short-term open access user shall be calculated in accordance with the following methodology:

$$\text{ST RATE} = 0.25 \times [\text{TSC} / \text{Av CAP}] / 365$$

Where:

ST RATE is the rate for short-term open access user in Rs per MW per day.

"TSC" means the Annual Transmission / Distribution Charges of the transmission or distribution licensee determined by the Commission.

"Av CAP" means the average capacity in MW served by the system

The capacity of the transmission licensee shall be the sum of the generating capacities connected to the transmission system and contracted capacities of other transactions handled by the system of the transmission licensee.

The capacity of the distribution licensee shall be the sum of the distributed load for the licensee.

- (b) The transmission charges payable by a short-term open access user in case of un-congested transmission corridor shall be levied as under, namely:-
- (1) Up to 6 hours in a day in one block: 1/4th of ST RATE.
 - (2) More than 6 hours and up to 12 hours in a day in one block: ½ of ST RATE
 - (3) More than 12 hours and upto 24 hours in a day in one block: equal to ST RATE
- (c) Every licensee shall declare rate in Rs per MW per day, which shall remain fixed for a period of one year:
- Provided further that where reservation of capacity has been done consequent to bidding in the manner specified in Regulation 6, the ST RATE shall be taken as the floor price for bidding.
- (iii) 25% of the charges collected from the short-term open access user shall be retained by the licensee and the balance 75% shall be adjusted towards reduction in the charges payable by the long-term open access users.
- (iv) The rates, charges and terms and conditions for providing the use of intervening transmission facilities would be mutually decided by the licensees.
- (v) Any dispute on the extent of surplus capacity available or disagreement on the rates, charges and terms and conditions, shall be adjudicated upon by the Commission. However the rates, charges and terms and conditions shall be fair and reasonable and may be allocated in proportion to the use of such facilities.

(2) Cross-Subsidy Surcharge

In addition to transmission charges and wheeling charges, a consumer availing open access to the transmission system/distribution system shall pay a Cross-Subsidy Surcharge.

The Open access users, except those availing open access facility to transfer power from their captive generating plants to the destination of their own use, shall pay the (cross-subsidy) surcharge to the distribution licensee of their area, as determined by the Commission from time to time under section 42 (2) of the Act, in accordance with the National Electricity Policy and Tariff Policy.

The amount of surcharge shall be so calculated as to meet the current level of cross subsidy from that category of consumers and shall be paid to the distribution licensee

of area of supply where the consumer is located. In case surcharge so calculated is negative, it shall be treated as NIL.

(3) Additional Surcharge

- (a) A consumer availing open access and receiving supply of electricity from a person other than the distribution licensee of his area of supply shall pay to the distribution licensee an additional surcharge, in addition to wheeling charges and cross subsidy surcharge, to meet the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.
- (b) The additional surcharge for obligation to supply shall become payable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such contract.
- (c) The distribution licensee whose consumer intends to avail open access shall submit to the Commission within thirty days of receipt of application an account of fixed cost paid by such open access user which the licensee is incurring towards his obligation to supply and demonstrate if any part of the fixed cost has become stranded.
- (d) The Commission shall scrutinize the statement of accounts submitted by the licensee and obtain objections, if any, of the consumer and determine the amount of additional surcharge, if any, payable by the consumer.
- (e) The additional surcharge shall be leviable for such period not normally exceeding one year as the Commission may determine.

(4) Scheduling and System Operation Charges

- (a) The scheduling and system operation charges shall be payable by all open access users who are under scheduling by State Load Despatch Centre as determined by the Commission in accordance with the Meghalaya State Electricity Regulatory Commission (Levy and collection of State Load Despatch Centre fees and charges) Regulations, 2009.
- (b) Scheduling and system operation charges shall be payable by a supplier as well as his user availing open access under these regulations.

- (5) Reactive Power charges determined by the Commission shall be paid by open access users who draw reactive power from the grid.
- (6) Charges for backup supply from the grid shall be payable by the open access user in the event of failure of contracted supply. In case of outages on the part of the generator meeting open access load, standby arrangements should be provided by the licensee on payment of charges applicable to temporary connections for the relevant category of consumers.
- (7) If the open access user draws power at variance with the agreed schedule for drawl under the open access arrangement, the user shall pay UI charges as per Inter-State ABT until such charges are determined for intra-state operations.
- (8) Where a dedicated transmission system or distribution system used for open access is constructed for the exclusive use of an open access user, the transmission charges and/or wheeling charges for such a dedicated system shall be borne entirely by such open access user till such time the surplus capacity is allotted and used for by other persons or purposes.
- (9) The charges incurred for strengthening the system in order to provide open access for the exclusive use of an open access user shall be borne by that open access user.
- (10) Grid support charges and any other charges as may be specified by the Commission from time to time shall be payable by the open access user.

15. Curtailment Priority

In case of transmission/distribution capacity constraints or otherwise, if it becomes necessary to curtail the open access already granted, the short-term open access users shall be subjected to curtailment first followed by the long-term open access users.

Provided that within a category, all the open access users shall have same curtailment priority and shall be curtailed pro-rata to the allotted capacity in case of long-term open access users and the reserved capacity in the case of short-term open access users.

The nodal agency shall be responsible for curtailing supply in accordance with this regulation.

16. Information System

- (1) SLDC shall post the following information in a separate web page titled "Open Access Information" and also issue a monthly and annual report containing such information, namely-
 - (a) A status report on long-term users
 - (b) A status report on short-term users
 - (c) Floor rate for bidding in case of congestion
 - (d) Peak load flows on EHV and HV lines
 - (e) Information regarding average loss in the transmission system and distribution system as determined by the licensee(s) on a monthly basis.
- (2) The information shall be updated upon every change in status.
- (3) All previous reports shall be available in the web-archives.
- (4) The SLDC shall post the above information on its website within six months of the regulation coming into force and keep updating it on a continuous basis.

17. Special Energy Meters

- (1) The open access users shall provide ABT compatible Special Energy Meter as Main Meter, capable of time - differentiated measurements (15 minutes) of necessary parameters as may be specified by the STU or SLDC.
- (2) Main meters shall always be maintained in good condition and shall be open for inspection by any person authorised by the nodal agency.
- (3) The concerned licensee may provide check meters of the same specifications as main meters.
- (4) The main and check meters shall be periodically tested and calibrated by the concerned licensee in the presence of other party involved. Main and check meters shall be sealed by both parties. Defective meter shall be replaced immediately.
- (5) Reading of main and check meters shall be taken periodically at appointed day and hour by authorized officer of the concerned licensee, the generator and the open access user or his representative, as the case may be. Meter reading shall be communicated to SLDC by the open access user and the generating company or trader, as the case may be, by the licensee, within 12 hours of meter reading.
- (6) Readings of the check meters shall be considered when main meters are found to be defective or stopped. Both the main meter and check meter shall be tested for accuracy if difference between the readings of main and check meters vis-à-vis main

meter reading exceed twice the percentage errors permissible for relevant accuracy class. The meter found defective shall be replaced immediately.

- (7) If during the test checks or otherwise, both the main meters and the corresponding check meters are found to be beyond permissible limits of error as per the IS specifications, both the meters shall be immediately calibrated and the correction applied to the generation of energy registered by the main meter to arrive at the correct generation of energy registered by the main meter for billing purposes for the period of the month up to the time of such test check. Billing for the period thereafter until the next monthly meter reading shall be as per the calibrated main meter.
- (8) If an open access user requires the licensee to provide main meter it shall provide security to the licensee and shall pay for its rent. The meter shall be maintained by the licensee.

19. Energy losses

- (1) The open access users shall bear average energy losses in the transmission system and / or distribution system as determined by the Commission from time to time in accordance with the terms and conditions of tariff regulations, in proportionate to its drawal.
- (2) The loss in the transmission system and / or distribution system shall be compensated by additional injection at the injection point(s).

19. Collection and Disbursement of charges

- (1) In case of open access to user, the concerned Distribution Licensee (or concerned Transmission Licensee if the user is directly connected to its network), may invoice a user in respect of the open access charges (such as Transmission Charges/Wheeling Charges/Cross Subsidy Surcharge/ Additional Surcharge as the case may be) as set out in Regulation 14 and the open access user shall pay those charges, in accordance with the procedures set out in the Bulk Capacity Agreement (Regulation: 10) between the Licensees and the user.

Provided that the Distribution Licensee and Transmission Licensee(s) shall have the appropriate back-to-back arrangements in place in order to pass on Open Access Charges, pertaining to the concerned Licensees.

- (2) The scheduling and system operation charges in respect of open access shall be paid to the State Load Despatch Centre by the Open Access users.
- (3) The Unscheduled Interchange charges shall be paid in the manner as directed by the State Load Despatch Centre on weekly basis.

20. Compliance of State Grid Code

The open access users shall abide by the State Grid Code as applicable and instructions given by State Transmission Utility and State Load Despatch Centre from time to time.

21. Redressal Mechanism

- (1) All disputes and complaints relating to open access shall be made to the State Load Despatch Centre, which may investigate and endeavour to resolve the grievance within thirty days, and
- (2) Whenever the State Load Despatch Centre is unable to resolve a grievance, the grievance shall be referred to the Commission.

22. Reports

The distribution licensee shall submit a quarterly report in every calendar year within one month of the end of the quarter in the following format:

SCHEDULE

Sl. No.	Name and address of the open access customer	Point of injection	Point of drawal	Capacity allowed (MW)	Period of open access allowed	Actual utilization in MU

23. Communication facility

The open access customer shall have the communication requirements such as telephone, fax and e-mail as the nodal agency may direct from time to time.

24. Issue of orders and directions

Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and directions with regard to the implementation of these regulations and procedures to be followed.

25. Powers to remove difficulties

- (1) In case of any difficulty in giving effect to any of the provisions of these regulations, the Commission may by general or special order, direct the Open Access Customers, generators and the licensees to take suitable action, not being inconsistent with the provisions of Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

- (2) The Open Access Customers, generators and the licensees may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these regulations.

26. Power to amend

The Commission may, at any time, vary, alter, modify or amend any provisions of these regulations.

J. B. POON,
Secretary
Meghalaya State Electricity Regulatory Commission,
Shillong.

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No.20 Shillong, Wednesday, February 16, 2011, 27th Magha, 1932 (S. E.)

GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
ORDERS BY THE GOVERNOR

NOTIFICATION

The 8th February, 2011.

No.MSERC/TWE/03/2010/01.-The following draft of the Meghalaya State Electricity Regulatory Commission (Determination of Tariff for Transmission and Wheeling of Electricity) Regulations, 2011 which the Commission proposes to make in exercise to the powers conferred by clauses (zd) and (ze) of subsection (2) of section 181 read with section 61 and subsections (1) and (2) of section 62 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) of section 181 and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

**THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(DETERMINATION OF TARIFF FOR TRANSMISSION AND WHEELING OF ELECTRICITY)
REGULATIONS, 2011.**

(_____ of 2011)

General

1. Short title and commencement

- (1). These regulations may be called the Meghalaya State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff for Transmission and Wheeling of Electricity) Regulations, 2011.
- (2). They shall come into force from the date of notification in the Gazette of Meghalaya.
- (3). They shall apply to all the transmission and distribution of electricity by licensees in the State of Meghalaya.

2. Definitions

In these Regulations, unless the context otherwise requires:

- (1) '**Act**' means the Electricity Act, 2003 (Act 36 of 2003);
- (2) '**Additional capitalization**' means the capital expenditure incurred or projected to be incurred after the date of commercial operation of the project and admitted by the Commission after prudent check subject to provisions of Regulation 11 of these Regulations.
- (3) '**Aggregate Revenue Requirement**' or '**ARR**' means the costs pertaining to the licensed business in accordance with these regulations to be recovered from the tariff and / or charges determined by the Commission.
- (4) '**Allotted Transmission Capacity**' means and include the power transfer in MW between specified point (s) of injection and points of drawal allowed to a long-term customer or short-term customer on the intra-state transmission system under normal circumstances and the expression 'allotment of capacity' shall be construed accordingly.
- (5) '**Auditor**' means an Auditor appointed by a transmission licensee in accordance with the provisions of Section 224 and 619 of the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.
- (6) '**Availability**' in relation to a transmission system for a given period shall mean the time in hours during which period the transmission system is capable of transmitting electricity at a declared voltage to the delivery point and shall be expressed in percentage of total hours in the given period.
- (7) '**Base year**' means the Financial Year immediately preceding the year for which the ARR / tariff of the control period and used for purpose of these Regulations.

- (8) '**Beneficiary (ies)**' shall mean long-term or short-term customers whose tariff is determined under these Regulations.
- (9) '**CERC**' or '**Central Commission**' means the Central Electricity Regulatory Commission.
- (10) '**Commission**' means Meghalaya State Electricity Regulatory Commission'.
- (11) '**Change in law**' means occurrence of any of the following events:
- (i) enactment, brining into force, adoption, promulgation, amendment, modification or repeal of any law; or
 - (ii) change in interpretation of any law by a competent court, tribunal or Government or other authority which is the final authority for such interpretation under law; or
 - (iii) change in any order, direction or sanction issued by a competent authority
- (12) '**Control period**' means a multi year period fixed by the Commission.
- (13) '**cut –off-date**' means 31st March of the year closing after two years of the year of commercial operation of the project and in case the project is declared under commercial operation in the last quarter of a year, the cut-off-date shall be 31st March of the year closing after 3 years of the year of commercial operation.
- (14) '**Date of commercial operation**' or COD means the date declared by the transmission licensee from 0000 hour from which an element of the transmission system is in regular service after successful charging and trial operation.
- Note: (i) The date shall be the first day of a calendar month and the transmission charge for the element shall be payable and its availability shall be accountable from that date.
- (ii) In case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, its suppliers or contractors, the Commission may specify the date of commercial operation prior to the element coming into regular service.
- (15) '**Day**' means 24 hours starting from 0000 hour and ending at 24.00 hrs.
- (16) '**Existing project**' means the project declared under commercial operation prior to the commencement of these regulations.
- (17) '**Licensee**' means a person who has been granted license by the Commission under Section 14 of Act and includes a deemed licensee under the Act.
- (18) '**Licensed business**' means the functions or duties which the licensee has to perform under the terms and conditions specified in the license.

- (19) **‘Long-term transmission customer’** means a person having a long-term contractual right beyond one year to use the inter-state / intra-state transmission system as the case may be by paying transmission charges.
- (20) **‘Other business’** means any business of the transmission licensee other than licensed business.
- (21) **‘Open access’** means the non-discriminatory provision for use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the Regulations specified by the Commission.
- (22) **‘Open access agreement’** means an agreement entered into between a transmission and / or distribution licensee and the customer to avail open access to the licensee’s network for transmission and / or wheeling of electricity.
- (23) **‘Operation and maintenance expenses’** or **‘O&M expenses’** means expenditure incurred on operation and maintenance of the project or part thereof and include expenditure on manpower, repairs etc .
- (24) **‘Original Project Cost’** means the capital expenditure incurred by the transmission licensee within the original scope of the project upto the cut-off date as admitted by the Commission.
- (25) **‘Short-term customer’** means a person having short-term access for a period upto one year over an intra-state transmission system by paying transmission charges.
- (26) **‘Transmission business’** means the business of transmission of electricity by a transmission licensee within the State of Meghalaya under the terms and conditions specified in the license.
- (27) **‘Transmission licensee’** means a licensee authorized to establish or operate transmission lines in the State of Meghalaya.
- (28) **‘Wheeling’** means the operation whereby the distribution system and associated facilities of a transmission licensee or a distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined by the Commission Under Section 62.
- (29) **‘Useful life’** in relation to transmission system from the date of commercial operation shall mean 25 years for substation and 35 years for transmission line.
- (30) **‘Year’** means financial year.

The words and expressions used and not defined in these Regulations but defined in the Act shall have the same meaning as assigned to them in the Act.

3. Scope and Application

These Regulations shall be apply for determination of transmission tariff / charges and wheeling charges under sub-sections (b) and (c) Section 62 (1) of the Act and shall not apply to cases where tariff has been determined through a transparent process of bidding under Section 63 of the Act.

4. Aggregate Revenue Requirement and Tariff

- (1) The Commission shall determine the Aggregate Revenue Requirement (ARR) each year for the transmission business of a transmission licensee and wheeling charges for conveyance of electricity in accordance with the principles laid down in these Regulations.
- (2) The Aggregate Revenue Requirement determined by the Commission shall be the basis for fixation of transmission tariff / charges for transmission or wheeling charges for conveyance of electricity.

5. Guidelines for computing Aggregate Revenue Requirement

- (1) (a) The Commission shall issue guidelines for computing Aggregate Revenue Requirement / expected revenue from charges applicable to the transmission business from time to time to enable the transmission licensee to file ARR.
(b) The transmission licensee shall apportion its costs between (i) SLDC activity and (ii) Transmission activity based on the allocation statement which shall contain the methodology adopted for the apportionment till the accounts between the SLDC and the transmission activity are segregated.
- (2) The transmission licensee shall file an application before the Commission for approval of its ARR each year within the specified period before commencement of ensuing year based on the guidelines issued by the Commission under Sub-Regulation (1) above.
- (3) The application for ARR for transmission business shall contain complete details for the current year and estimates for the ensuing year to which proposals relate in respect of the following:
 - (a) O&M costs which include

- (i) employee related costs;
- (ii) repairs and maintenance costs ;
- (iii) administrative and general costs;
- (iv) norms proposed by the transmission licensee including indexation and other appropriate mechanism in terms of principles specified in these Regulations;
- (v) working capital requirement;
- (vi) detailed scheme / project wise capital investment plan consistent with approved resources plan;
- (vii) appropriate capital structure and its cost of financing (interest cost and return on equity) for the purpose of computing weighted average cost of capital;
- (viii) range of transmission losses (upper and lower limits) for the purpose of incentives / penalties
- (ix) details of depreciation and capitalization schedule
- (x) description of external parameters proposed for indexation
- (xi) details of taxes on income
- (xii) proposals for efficiency parameter targets
- (xiii) proposal for rewarding efficiency in performance
- (xiv) any other matter considered appropriate by the licensee for consideration by the Commission

6. Tariff Proposals

- (1) The transmission licensee shall submit proposals for determination of tariff / charges for transmission of electricity for transmission business along with the application of ARR, as per the guidelines issued by the Commission from time to time.
- (2) The proposals for tariff / charges shall cover, among others;
 - (i) transmission system or network usage forecast for ensuing year consistent with the business plan.
 - (ii) proposals for computation of tariff for transmission of electricity for ensuing year, including the losses, to be charged in kind.
 - (iii) proposals for non-tariff income with item-wise details and description
 - (iv) proposals in regard to income from other business
 - (v) expected revenue from the proposed transmission tariff / charges, non-tariff income and income from other business(es)
 - (vi) proposal to meet expected revenue gap

7. Approval of tariff proposals

- (1) The Commission may, on receipt of the application for determination of tariff for transmission of electricity, call for any additional information or data required for examining the proposals of the transmission licensee.
- (2) The Commission shall, on receipt of the complete information / data from the transmission licensee, issue an order approving the ARR / tariff with such modifications and / or conditions, as it may deem necessary, within 120 days from the date of receipt of application from the licensee, duly following the procedure laid down under section 64 of the Act.

8. Business plan

The licensee shall submit to the Commission a business plan containing, inter alia, load forecast and transmission system plan (capital investment plan) consistent with the guidelines on load forecast and resources plan as approved by the Commission, which include:

- (a) capital investment plan along with capitalisation schedule and financing plan;
- (b) operation maintenance expenses based on the proposed norms for O&M costs
- (c) depreciation
- (d) performance targets
- (e) non-tariff income from other sources other than transmission business of the licensee
- (f) any other information which require consideration by the Commission

Chapter – 2

Procedure for determination of tariff

9. The transmission licensee shall segregate its business into transmission business and the SLDC activity. The transmission business requirement only shall be used for determining non-discriminatory transmission charges. The proposals submitted by the transmission licensee shall be supported by an allocation statement containing apportionment of all costs, revenues, assets, liabilities, reserves and provisions between the transmission business, SLDC activity and any other business of the licensee. The allocation statement shall also contain the methodology used for such apportionment between different businesses.

10. Capital cost

- (1) The capital cost of a project shall include (a) expenditure incurred or projected to be incurred, including interest during construction and financing charges, any gain or loss on account of foreign exchange variation / risk during construction - (i) being equal to 70% of the funds deployed in the event of actual equity in excess of 30% funds deployed, by treating the excess equity as normative loan; or (ii) being equal to actual amount of loan in the event of actual equity less than 30% of the funds deployed - upto the date commercial operation of the project
- (2) The capital cost as admitted by the Commission after prudent check shall from the basis for determination of tariff subject to:
 - (i) The prudent check of the capital cost shall be carried out based on the benchmark norms to be specified by the Commission from time to time.
 - (ii) Where the benchmark norms have not been specified by the Commission, the prudent check shall include scrutiny of reasonableness of the capital expenditure, financing plan, interest during construction, use of efficient technology, cost over-run and time over-run and such other matters as may be considered appropriate by the Commission for determination of tariff.
- (3) Capitalised spares subject to the following ceiling norms:
 - (i) transmission line.....0.75%
 - (ii) transmission substation ...2.5%
 - (iii) series compensation devices and HVDC station3.5%

Note where benchmark norms for initial spares have been published as a part of benchmark norms for capital cost under sub regulation (b), such norm shall apply to the exclusion of the norm specified herein.
- (4) Where the transmission service agreement between the transmission licensee and the long-term transmission customer provides for ceiling of actual expenditure, the capital expenditure admitted by the Commission shall take into consideration such ceiling for determination of tariff.
- (5) The assets forming part of the project but not in use shall be taken out of the capital cost.

- 11. Additional capitalisation:** (1) The capital expenditure incurred or projected to be incurred, on the following counts within the original scope of work, after the date of

commercial operation and upto the cut-off date may be admitted by the Commission, subject to prudent check:

- (i) undischarged liabilities;
- (ii) works deferred for execution;
- (iii) procurement of initial spares within the original scope of work subject to sub-regulation 10 (3) above;
- (iv) liabilities to meet award of arbitration or the compliance of the order or decree of a court; and
- (v) change in law

Note: The details of the works included in the original scope of work along with the estimates of expenditure, undischarged liabilities and the works deferred for execution shall be submitted along with the application for determination of tariff.

(2) The capital expenditure incurred on the following counts after the cut-off date may, at the discretion of the Commission, be admitted subject to prudent check:

- (i) liabilities to meet award of arbitration or compliance of the order or decree of the court;
- (ii) change in law;
- (iii) any expenditure on items, such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement of switchyard equipment due to increase in fault level, emergency restoration system, insulators cleaning infrastructure, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of the transmission system.

Note: In respect of item (iii) above, any expenditure for acquiring of minor items or assets like tools and tackles, furniture, air – conditioners, voltage stabilizers, refrigerators, coolers, fans, washing machines, heat convectors, mattresses, carpets etc incurred after the cut-off date shall not be considered for additional capitalization for determination of tariff.

12. Renovation and modernization

(1) The transmission licensee, for meeting the expenditure on renovation and modernization (R&M) for the purpose of extension of life beyond the useful life of the transmission system, shall make an application to the Commission for approval of

the proposal along with a detailed project report giving complete scope, justification, cost-benefit analysis, estimated life extension from a specified date, financial package, phasing of expenditure, schedule of completion, reference price level, estimated completion cost including foreign exchange component, if any, record of consultation with the beneficiaries and any other information considered relevant by the transmission licensee.

- (2) The Commission shall accord approval for the proposal of transmission licensee for renovation and modernization only after due consideration of the reasonableness of the cost estimate, financing plan, schedule of completion, interest during construction, use of efficient technology, cost benefit analysis and such other factors as may be considered necessary and relevant by it.
- (3) Any expenditure incurred or projected to be incurred, as admitted by the Commission after prudent check, for renovation and modernization and life extension, and after writing off the original amount of the replaced assets and after deducting the accumulated depreciation including advance against depreciation already recovered from the original project cost, shall form the basis for determination of tariff.

13. Debt-equity ratio

In the case of a project declared under commercial operation:

- (i) If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan.
- (ii) Where equity deployed is less than 30%, the actual equity deployed shall be considered for determination of tariff.
- (iii) Where equity invested in foreign currency, it shall be designated in Indian rupee as on the date of each investment.
- (iv) The premium raised by the transmission licensee while issuing share capital and investment of internal resources created out of its free reserve, for funding the project, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting the capital expenditure of the transmission system.
- (v) The debt-equity ratio admitted by the Commission shall be taken for determination of tariff.

- (vi) Any expenditure incurred or projected to be incurred as admitted by the Commission as additional capital expenditure for determination of tariff and renovation and modernization expenditure for life extension shall be serviced as per this regulation.

Chapter – 3

Computation of Tariff

14. Annual fixed cost

The tariff for transmission of electricity shall comprise of charges for recovery of annual fixed cost consisting of the components specified below:

- (a) Return on equity
- (b) Interest of loan capital
- (c) Depreciation
- (d) Interest on working capital
- (e) Operation and maintenance expenses

(a) Return on equity

- (1) The return on equity shall be computed in rupee terms on equity base, determined under Regulation 13 of these Regulations.

- (2) (a) The return on equity shall be computed on pre-tax basis at the base rate of 15.5% to be grossed up as per sub-regulation (3) below.

(b) In case of transmission projects commissioned on or after 1st April 2009 an additional return of 0.5% shall be allowed if such projects are completed within the time limit as specified in the CERC (Terms and Conditions of Tariff) Regulations, 2009.

The additional return of 0.5% shall not be admissible if the project is not completed within the time limit specified for reasons whatsoever.

- (3) The rate of return on equity shall be computed by grossing up the base rate with the normal tax rate applicable to the transmission licensee as shown below:

For example:

- (i) Base rate to be grossed up by the applicable tax rate for the year 2010-11 for filing ARR in FY 2011-12.
- (ii) Base rate to be grossed up by the applicable tax rate for the year 2011-12 for filing ARR in FY 2012-13.

Provided that the return on equity with respect to the actual tax rate applicable to the transmission licensee, in line with the provisions of the relevant Finance Acts of the respective year, shall be tried up separately for each year along with the tariff petition for the ensuing year.

- (4) Rate of return on equity shall be rounded off to three decimal points and be computed as per the following formula:

Rate of pre-tax return on equity = Base rate (i-t)

where 't' is the applicable tax rate in accordance with sub-regulation (3) above.

Illustration

- (i) In case of transmission licensee paying minimum alternate tax (MAT) @ 11.33% or as applicable including surcharge and cess;

Rate of pre-tax return on equity = $15.50 / (1 - 0.1133) = 17.481\%$

- (ii) In case of transmission licensee paying normal corporate tax @ 33.99% including surcharge as cess;

Rate of pre-tax return on equity = $15.50 / (1 - 0.3399) = 23.481\%$

(b) Interest on loan capital

- (1) The loan arrived at in the manner indicated in Regulation 13 of these regulations shall be considered as gross normative loan for calculation of interest on loan.
- (2) The normative loan shall be worked out by deducting the cumulative repayment admitted by the Commission at the end of previous financial year from the gross normative loan.
- (3) The repayment for an year shall be deemed to equal to the depreciation allowed for that year.
- (4) Notwithstanding any moratorium period availed by the transmission licensee, the repayment of the loan shall be considered from the first year of commercial operation of the project and shall be equal to the annual depreciation allowed.
- (5) (a) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the project.
(b) If there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered.
- (6) The transmission licensee shall make every effort to re-finance the loan as long as it results in savings in interest and in such a case, the costs associated with such re-

financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the transmission licensee in the ratio of 2:1.

- (7) The changes to the terms and conditions of the loans for such refinance shall be reflected from the date of such re-financing.
- (8) In case of dispute arising out of re-financing of loan, any of the parties may make an application to the Commission in accordance with MSERC (Conduct of Business) Regulations, as amended from time to time including statutory enactment thereof, for settlement of the dispute. The beneficiary or any transmission customer shall not withhold any payment on account of interest claimed by the transmission licensee during the pendency of any dispute arising out of re-financing of loan.

(c) Depreciation

- (1) The value base for the purpose of depreciation shall be the capital cost of the asset as admitted by the Commission.
- (2) The salvage value of the asset shall be 10% and the depreciation shall be allowed upto maximum of 90% of the capital cost of the asset.
- (3) The depreciation shall be calculated annually based on straight line method and at the rates specified in Appendix I of these Regulations for the assets of the transmission system.
- (4) The remaining depreciation value as on 31st March of the year closing after a period 12 years from the date of commercial operation shall be spread over the balance useful life of the asset.
- (5) The depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for a part of the year, depreciation shall be calculated on a prorata basis for the part of the year.

(d) Interest on working capital

- (1) The Commission shall determine the working capital requirement which shall cover:
 - (i) receivables equivalent to two months of fixed cost.
 - (ii) maintenance spares at 15% of the operation and maintenance expenses specified in Regulation 19 and
 - (iii) operation and maintenance expenses for one month
- (2) The rate of interest on working capital shall be on the normative basis and shall be equal to the Prime Lending Rate of the State Bank of India as on 1st April of the year in which the transmission system is declared under commercial operation.

- (3) Interest on working capital shall be payable on normative basis notwithstanding that the transmission licensee has not taken a loan for working capital from any outside agency.

(e) Operation and maintenance (O&M) expenses

- (1) O&M expenses shall comprise of the following :
- (a) salaries, wages, pensionary benefits and other employee costs;
 - (b) administration and general costs;
 - (c) repairs and maintenance costs and
 - (d) other miscellaneous expenses, statutory levies and taxes (except corporate income tax)
- (2) The transmission licensee shall submit all details of O&M expenses as required by the Commission.
- (3) The O&M expenses shall be approved by the Commission based on latest audited accounting statement, business plan submitted by the licensee, actuals for the previous year, prudent check and other factors considered relevant.

15. Computation and payment of transmission charge

- (1) The transmission licensee shall be entitled to recover its fixed cost from the beneficiaries as under:
- (a) The fixed cost of the transmission system shall be computed on an annual basis, as in Regulation 14, aggregated as appropriate, and recovered on monthly basis as transmission charges from the users.
 - (b) The transmission charge (inclusive of incentive) payable for a calendar month or part thereof shall be:

$$\text{AFC} \times (\text{NDM}/\text{NDY}) \times (\text{TAFM} / \text{NATSAF})$$

Where

AFC	=	Annual Fixed Cost specified for the year in rupees
NATSAF	=	Normative annual transmission system availability factor in percent specified in sub-regulation (1) above
NDM	=	Number of days in the month
NDY	=	Number of days in the year
TAFM	=	Transmission system availability factor for the month in percent as specified in Regulation 18 (2) of these regulations.

- (2) The transmission charges shall be calculated separately for part of the transmission system having different NATSAF and aggregated thereafter according to their sharing by the beneficiaries.
- (3) The transmission licensee shall raise a bill for the transmission charges (inclusive of incentive) for a month based on its estimate of TAFM. Adjustments, if any, shall be made on the basis of TAFM to be certified by the SLDC within 30 days from the last day of the relevant month.

16. Non-tariff income

- (1) All incomes (a) incidental to the transmission business (b) derived by the licensee from sources, including but not limited to profit, from disposal of assets, rents, delayed payment of surcharge, miscellaneous receipts from the beneficiaries and (c) income to licensed business from other business to the transmission licensee shall constitute non-tariff income of the licensee.
- (2) The amount received by the licensee on account of non-tariff income shall be deducted from the aggregate revenue requirement in calculating the net revenue requirement of the transmission licensee.

17. Other income of the transmission licensee

Where the transmission licensee engages itself in any other business, a portion of the revenue derived from such other businesses shall be treated as income to the extent specified by the Commission under section 41 of the Act.

Chapter – 4

Norms of operation

18. (1) Recovery of capacity charge, energy charge, transmission charge and incentive by transmission licensee shall be based on the achievement of the operational norms specified in this chapter.
- (2) Normative Annual Transmission System Availability Factor (NATSAF) for recovery of transmission charges for the Normative Annual Transmission System availability factor (NATSAF) shall be as under:

AC system shall be	-	98%
HVDC bi-pole links	-	92%
HVDS back to back stations	-	95%

(3) Availability Energy Consumption in the Sub-station: The charges for auxiliary energy consumption in AC substation for the purpose of air conditioning, lighting and consumption in other equipment shall be borne by the transmission licensee and included in the normative O&M expenses.

The charges for auxiliary consumption in HVDC substations shall be borne by the transmission licensee and are to be incurred in the normative O&M expenses.

19. Allocation of Annual Transmission Service charge

- (1) The annual transmission service charge arrived at as per Regulation 15 shall be divided between the beneficiaries of the transmission system on a monthly basis based on allotted transmission capacity or contracted capacity as the case may be.
- (2) For intra-state transmission system, the monthly transmission charges shall be pooled for sharing by long-term transmission customers in accordance with the following formula:

The transmission charges for intra-state system payable for a month by a long-term transmission customer of that transmission system

$$= \left[\sum_{i=1}^n \left[\frac{TC_i}{12} \right] \right] \times \frac{CL}{SCL}$$

Where,

TC _i	=	Annual transmission service charges for the ith project in the state computed in accordance with these regulations
n	=	Number of projects in the state
CL	=	Allotted transmission capacity to the long-term transmission customer
SCL	=	Sum of the allotted transmission capacities to all the long-term transmission customers of the State Transmission System

- (3) In the case of short-term open access customers, the charges payable shall be calculated in accordance with the following formula:

$$ST - Rate = 0.25 \times [ATSC / AV - CAP] / 365;$$

Where:

ST-RATE is the rate for short term open access customer in Rs. per MW per day

ATSC is annual transmission service charge;

AV-CAP means the average capacity in MW served by the transmission system of the transmission licensee in the last financial year and shall be the sum of the generating capacities connected to the transmission system and the contracted capacities of other transactions handled by the system of the transmission licensee.

- (4) 25% of the charges collected from the short-term open access customer shall be retained by the transmission licensee and the balance 75% shall be adjusted towards the reduction of the transmission service charges payable by the beneficiaries.
- (5) The transmission charges corresponding to any plant capacity for which a beneficiary has not been identified and contracted shall be paid by the concerned generating company.

20. Norms of operation to be ceiling norms

The norms of operation specified in these regulations shall be the ceiling norms and shall not preclude the transmission licensee and the beneficiaries and / or the long-term transmission customers from agreeing to the improved norms of operation and in case the improved norms are agreed to, such norms shall be applicable for determination of tariff.

21. Deviation from norms

The tariff for transmission of electricity may also be fixed in deviation to the norms specified in these regulations subject to:

- (i) The tariff determined in deviation of norms specified shall not exceed the tariff calculated on the basis of norms specified in the regulations.
- (ii) Any deviation shall come into effect only after approval by the Commission, for which an application shall be made by the transmission licensee.

22. Foreign Exchange Rate Variation

- (1) The transmission licensee may hedge foreign exchange exposure in respect of interest on foreign currency loan and repayment of foreign loan taken for the transmission system, in part or full at the discretion of the transmission licensee.
- (2) Every transmission licensee shall recover the cost of hedging of foreign exchange rate variation corresponding to the normative foreign debt, in the relevant year on an

year to year basis, as expense for the period in which it arises and extra rupee liability corresponding to such foreign exchange rate variation shall not be allowed against the hedged foreign debt.

- (3) To the extent the transmission licensee is unable to hedge the foreign exchange exposure, the extra rupee liability towards interest payment and loan repayment corresponding to the normative foreign currency loan in the relevant year shall be permissible provided it is not attributable to the transmission licensee or its suppliers or contractors.
- (4) The transmission licensee shall recover the cost of hedging and foreign exchange rate variation on year to year basis as income or expense in the period in which it arises.

23. Tax on income

- (1) Tax on income streams of the transmission licensee shall not be recovered from the beneficiaries or the long term customers.
- (2) The deferred liability, excluding fringe benefit tax upto 31st March 2009 when ever it materializes, shall be recoverable directly from the beneficiaries and the long-term customers.

24. Billing and payment of charges

Bills shall be raised for capacity charge, energy charge and the transmission charge by the transmission licensee on a monthly basis in accordance with these regulations and payments shall be made by the beneficiaries or the transmission customers directly to the transmission licensee.

25. Late payment surcharge

In case the payment of any bill for charges payable under these Regulations is delayed by a beneficiary or a transmission customer beyond a period of 60 days from the date of billing, a late payment surcharge at the rate of 1.25% per month shall be levied by the transmission licensee.

26. Rebate

- (1) The transmission licensee shall allow a rebate of 2% for payment of bills through letter of credit on presentation.
- (2) Where payments are made by any other mode, other than through letter of credit, within a period of one month of presentation of bills, the transmission licensee shall allow a rebate of 1%.

27. Application fee and publication expenses

The application filing fee and expenses incurred on publication of notices in respect of the application for approval of tariff, may, at the discretion of the Commission, be allowed to be recovered by the transmission licensee directly from the beneficiaries / customers.

Chapter – 5**Wheeling of electricity**

28. The regulations contained in this chapter apply for determination of tariff / charges payable for wheeling of electricity by a distribution licensee to:
 - (a) a distribution system user who has been allowed open access to the distribution system of a distribution licensee
 - (b) a consumer or a class of consumers allowed to receive supply from a person other than a distribution licensee
 - (c) a distribution system user who is directly connected to a transmission system need not pay any tariff.
29. Every distribution licensee shall maintain separate records in respect of open access transactions and shall prepare an allocation statement to enable the Commission to determine tariff for each category of consumers specified in Regulation 28.
30. Every distribution licensee shall submit a separate application to the Commission for determination of tariff for wheeling of electricity. The application shall contain the forecast based on reasonable assumption of the underlying financial and operational parameters based on the business plan submitted to the Commission.

31. The wheeling charges of a distribution licensee shall provide for recovery of the ARR relating to the distribution business for a FY as reduced by the amount of non-tariff income and income from other business.

32. Computation of the ARR

The ARR for wheeling charges shall be computed on the same lines as in Regulation 14 of these regulations. The ARR for wheeling charges shall be used for determination of tariff for wheeling business.

33. Income from wheeling charges

The income derived from wheeling charges, as approved by the Commission shall be deducted from the ARR of the distribution licensee.

34. In the case of utilisation of inter-state transmission system, in addition to the intra-state transmission system and / or distribution system, the transmission charges and / or wheeling charges shall be payable for the use intra-state system, in addition to the charges for utilisation of inter-state transmission system.

Chapter – 5

Open access charges

35. The Commission shall follow the guidelines issued by the CERC as amended from time to time in fixing the charges for open access customers.

36. The charges for use of the transmission and / or distribution system by an open access customer shall be regulated as under:

(1) Open access customers connected to the transmission / distribution system shall pay the transmission charges and / or wheeling charges and any other applicable charges as determined by the Commission from time to time and notified through a relevant tariff order or otherwise and as per the conditions stipulated therein;

Provided that the wheeling charges so payable shall be subject to a minimum level, as fixed by the Commission in the orders issued by it.

(2) (a) If the open access customer avails the transmission and / or distribution system for delivery of electricity to consumers premises in the area of supply of a distribution licensee, he shall pay the licensee the (cross subsidy) surcharge as determined by the Commission from time to time under section 42 (2) of the Act;

- (b) No (cross subsidy) surcharge shall be payable if the open access is provided to a person who has established a captive generating plant for carrying the electricity to the distribution of his use.
- (3) The open access customers shall also be liable to pay an additional surcharge on charges of wheeling, as may be specified by the Commission from time to time to him, under section 42 (4) of the Act, in case open access is sought for receiving supply from a person other than a distribution licensee of such consumer's area of supply towards meeting the fixed cost of the distribution licensee arising out of his obligation to supply.
- (4) When an electrical plant or electrical line is to be constructed by the licensee in order to extend power supply to an open access customer, the licensee may recover such expenditure from the use as specified by the Commission.
- (5) If the network augmentation is required for providing open access to the customer, the licensee shall carryout such augmentation only if:
- (a) the transmission licensee can recover, within a reasonable time the costs, capital investment and a reasonable return on capital investment in respect of such augmentation; and
provided the licensee has issued a notice to the open access user to make a capital contribution towards such network augmentation.
 - (b) the licensee has the capacity to raise funds to finance such capital expenditure.
- (6) Scheduling and system operation charges shall be payable by all open access customers for scheduling by the SLDC. Such charges shall be governed by relevant regulations issued by the Commission, as amended from time to time.

37. Payment terms and conditions

- (1) In the case of long term / short term users, the distribution licensee shall bill a customer for open access charges and the open access customers shall pay such charges in accordance with the procedures laid down in the open access agreement between the licensee and the customer.
- (2) The distribution licensee shall make an arrangement with the concerned transmission licensee (s) in order to pass on the transmission charges so collected from the customer to the transmission licensee.

- (3) The SLDC shall assist / advise the distribution licensee in the matter of energy accounting and allocation.
- (4) All open access customers shall pay the charges in accordance with the open access, agreement from the date of commencement of open access as specified in the agreement, irrespective of whether such open access is used or not from such date, unless the failure to provide open access is due to the default of the licensee whose network is being used for open access.
- (5) In the case of surrender of whole or part of the contracted capacity or reduction / cancellation of the capacity allotted, the open access customer shall pay the charges towards compensation for the portion of the capacity surrendered as may be specified by the Commission.

(6) Payment by existing open access customers other than distribution licensees

All existing open access customers, other than distribution licensees, shall pay transmission charges, wheeling charges and other charges as may be determined by the Commission from time to time and / or as per the terms and conditions of the agreement.

38. The open access customers shall pay transmission charges and operating charges as under:

(1) Transmission charges

A. Long-term open access

- (1) The transmission charges for use of inter-state transmission system shall be recovered from long-term access customers in accordance with terms and conditions of tariff specified by the Central Electricity Regulatory Commission from time to time.
- (2) If the state network is being used in the open access as a part of inter-state transmission for conveyance of electricity across the territory of an intervening of state as well as conveyance within a state, which is incidental to such inter-state transmission of electricity, recovery of charges for such state network and the terms and conditions thereof shall be in accordance with the regulations as may be specified by the Commission under section 36 of Act for intervening transmission

facilities, if such charges and terms and conditions cannot be mutually agreed to by the licensees.

- (3) Any disagreement on transmission charges for such state network, as specified above, shall not be the sole reason for denying access and either party may approach the Commission for determination of transmission charges for such state network.

B. Short- term open access

- (1) The transmission charges at the following rates shall be payable by the short term open access customer for the energy approved for transmission at the point or points of injection.

Type of transmission	Transmission charges (Total) (Rs/mWh)
(a) bilateral, inter-regional	80
(b) bilateral between adjacent regions	160
(c) bilateral, wheeling through one or more intervening regions	240

- (2) Intra-state entities shall pay transmission charges for use of the state network as fixed by the state Commission in addition to the charges specified under sub-regulation (1) above.
- (3) In case the State Commission has not determined the transmission charges, the charges for use of respective state network shall be payable at the rate of Rs. 80/mWh for electricity transmitted.
- (4) The transmission charges payable for use of state network shall be communicated to the RLDC concerned who shall display these rates on its website.
- (5) The transmission charges payable for use of state network shall not be revised retrospectively.

(2) Operating charges

- (1) The operating charges at the rate of Rs. 2000/- per day or part of the day for each bilateral transaction for the RLDC involved and at the rate of Rs. 2000/- per day or part of the day for each SLDC involved shall be payable.

- (2) The operating charges shall be payable by the power exchange at Rs. 5000/- per day to the National LDC for each state involved and Rs. 2000/- per day for the SLDC involved for each point of transaction.
- (3) All buyers within a state shall be clubbed together and all sellers in a state shall be clubbed together by the power exchange (with necessary coordination with the SLDC) and each of the groups shall be counted as a single entity for levy of operating charges and for scheduling.
- (4) For levy of operating charges for SLDC and levy of intra-state transmission charges, each point of injection or drawal in the state network shall be counted separately.
 Note: (1) Operating charges include fee for scheduling system operation and collection and disbursement charges.
 (2) The operating charges collected by the STU shall be in addition to the fees and charges specified by the Commission under sub-section (4) of section 28 of the Act.
- (5) The transmission charges for use of state network and operating charges for SLDC shall be settled directly by the power exchange with the SLDC.

39. Fees and charges for RLDC and SLDC

- (1) Fees and charges for RLDC, including charges for unified load despatch and communication scheme, shall be payable by the long-term and the short-term customers, as may be specified by the Central Electricity Regulatory Commission.
- (2) The fees and charges for the SLDC shall be payable as applicable or as specified by the MSERC.

40. Payment of transmission charges and fees

- (1) (a) The transmission charges, in respect of long-term customer, shall be payable directly to the transmission licensee.
 (b) The STU may be designated by the Commission as agency for the purpose of collection and disbursing the transmission charges for intra-state transmission system.
 (c) The STU shall enter into agreements with long-term customers and short-term customers for collection of transmission charges and with transmission licensees, whose system is being used, for disbursement of transmission charges as received,

prorata to the transmission charges payable to the transmission licensees and the CTU / STU.

(d) The STU shall be entitled to reimbursement of reasonable costs incurred by it in collecting of other transmission charges of the transmission licensees, as specified by the Commission.

41. Default in payment of short term open access charges

- (1) In case of default in payment of fee or the charges specified under these regulations, the State Transmission Utility may, in its discretion, decide not to schedule the transaction or to cancel scheduling of already scheduled transaction or not to entertain any application of such persons in future until such time the default is rectified.
- (2) Notwithstanding the above, the person committing default in payment shall pay simple interest at the rate of 0.04% for each day of default.

42. Unscheduled inter-change (UI) charges

- (1) All transactions of state utilities and for inter-state entities scheduled by State Transmission Utility under these regulations, shall be accounted for and included in the respective day ahead net interchange schedules of concerned regional entity issued by the RLDC.
- (2) The State Transmission Utility designated for the purpose of collection / disbursement of UI charges from / to intra state entities shall be responsible for timely payment of the state's composite dues to regional pool account.
- (3) Any mismatch between the scheduled and actual drawal at drawal points and scheduled ad the actual injection and injection points for intra-state entities shall be determined by the SLDC and covered in the intra state UI accounting scheme.
- (4) Unless otherwise specified by the State Commission, UI rate for intra-state entity shall be 105% (for over drawal or under generation) and 95% (for under drawals and or over generation) of UI rate at the periphery of the regional entity.
- (5) No charges other than those specified under this regulation shall be payable by any person granted short term open access under these regulations.

43. Under utilisation

In case an open access user anticipates under utilisation of the capacity contracted, the user may surrender fully or part thereof with a reasonable advance notice.

44. Reactive energy charges

- (1) No separate energy accounting for short term open access transaction shall be carried out at inter-state level.
- (2) In state utility designated for the purpose shall be responsible for timely payment of state's composite dues to the regional reactive energy account in accordance with the provisions of the grid code.
- (3) The reactive energy drawals and injection by intra-state entities shall be governed by the regulations applicable within the state.

45. Transmission losses

- (1) The buyers and sellers of electricity shall absorb apportioned energy losses in transmission system as estimated by the SLDC as per the guidelines issued.
- (2) The energy losses shall be accounted for by providing a differential between schedule at the points of supply, inter-utility transfer and drawal of electricity.
- (3) The applicable transmission losses for the regional transmission system as well as state network shall be declared in advance and shall not be revised respectively.

46. Collection and disbursement of transmission charges and operating charges

- (1) The transmission charges and operating charges payable by the persons allowed short term access shall be collected and disbursed by the State Transmission Utility.
- (2) In the event of underutilization of the capacity contracted under open access by the user, the capacity surrendered could be used to meet the requirements of other applicant (s), and the surrendered capacity shall either be reduced or the capacity allocated to the open access user may be cancelled.
- (3) In the event of user's surrender of whole or part of the contracted capacity under sub-regulation (1) or reduction or cancellation under sub-regulation (2) above, the user shall pay compensatory charges to the concerned licensee as under:
 - (a) an amount equivalent to 50% of current application fee for long-term or short-term users, as the case may be, if the entire capacity surrendered or reduced

/ cancelled capacity is fully reallocated to other applicants within the notice period given by the user or the licensee, as the case may be.

(b) If the capacity surrendered or reduced / cancelled could not be fully reallocated to other applicants within the notice period, in such case:

(i) In the case of long-term user, the user shall, as a one-time exit fee, pay 25% of the transmission charges and / or wheeling charges, as the case may be, and the scheduling and system operation charges in force at that point of time, on the capacity that could not be re-allotted for the remaining term of agreement; and

(c) In case of short-term users, the user shall bear the full transmission charges and / or wheeling charges, as the case may be, and also the scheduling and system operation charges, in force at that point of time applied on the capacity that could not be re-allotted for the remaining term of agreement.

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